

COUNCIL MEETING

JULY 17, 2013

The Council Meeting of the Council of the County of Kaua'i was called to order by the Council Chair Jay Furfaro at the Council Chambers, 4396 Rice Street, Room 201, Lihu'e, Kaua'i, on Wednesday, July 17, 2013 at 9:10 a.m., after which the following members answered the call of the roll:

Honorable Tim Bynum
Honorable Gary L. Hooser
Honorable Ross Kagawa
Honorable Nadine K. Nakamura
Honorable Mel Rapozo
Honorable JoAnn A. Yukimura
Honorable Jay Furfaro

APPROVAL OF AGENDA.

Mr. Rapozo moved for approval of the agenda as circulated, seconded by Mr. Bynum, and unanimously carried.

PUBLIC COMMENT.

Pursuant to Council Rule 13(e), members of the public shall be allowed a total of eighteen (18) minutes on a first come, first served basis to speak on any agenda item. Each speaker shall be limited to three (3) minutes at the discretion of the Chair to discuss the agenda item and shall not be allowed additional time to speak during the meeting. This rule is designed to accommodate those who cannot be present throughout the meeting to speak when the agenda items are heard. After the conclusion of the eighteen (18) minutes, other members of the public shall be allowed to speak pursuant to Council Rule 12(e).

Chair Furfaro: Thank you very much. Is there anyone in the audience who wishes to speak now on any agenda item? Come right up, Sir. There are four (4) of you there. You have three (3) minutes. This is a three (3) minute period with no questions and answers.

There being no objections, the rules were suspended.

GLENN MICKENS: Thank you, Jay. For the record, Glenn Mickens. I have a short testimony because I know there are a number of other people who want to talk. I know we only have eighteen (18) minutes.

Chair Furfaro: You have three (3) minutes.

Mr. Mickens: Okay.

Chair Furfaro: Start now, the clock is running.

Mr. Mickens: If it is less than three (3)...

Chair Furfaro: You have three (3).

Mr. Mickens: Right.

Chair Furfaro: Please start.

Mr. Mickens: I want to reassert my previous testimonies to express my full support of the Office of the County Auditor and Ernie Pasion. I just hope that this Council and our Administration will do everything in their power to support our Auditor and his Office in their quest to point out corrective actions that need to be taken to put more efficiency in our Government. Since budget cuts have seriously impaired the ability of this Office to perform audits, I implore this Council to restore the cuts and let Mr. Pasion and his Staff continue their fine work that they were tasked to do. With your permission, Jay, I have a testimony from John Hoff that he would like me to read for him.

Chair Furfaro: You can use your time any way you want.

Mr. Mickens: Okay. This is from Mr. John Hoff. "When I first read this governing body and our present Mayoral Administration is attempting to cut the budget of our newly established Auditors Office, I truly could believe it. Any public agency or private sector individual that dares to get too close to the truth in our plantation state is subject to reeducation. Needless to say, I am in full support of the entire Auditor's Office, Ernie Pasion, and the entire Staff. They have performed in a highly professional and honest manner and reporting the facts in their very short existence, six (6) audits. In closing, I would like to point out one (1) very disturbing point. I was born in the Nation that embraced three (3) basic principles; life, liberty, and the pursuit of happiness. In today's world, newborns are delivered into a corrupt plantation mentality based upon money, power, and politics where the truth cannot be tolerated. The voters of Kaua'i voted for the Auditor's Office. Does that mean anything to this governing body? Do not disenfranchise our vote again by repeating the 'Ohana Kaua'i Property Tax incident. God help our children and grandchildren because politicians will certainly not. *Aloha, John Hoff.*" Thank you, Jay.

Chair Furfaro: Thank you. Next speaker, please

SHERWOOD HARA: Chairman and members of the Council, I am here to speak in support of Mr. Ernie Pasion, our County Auditor. He has fulfilled his role and his duties...

Chair Furfaro: Excuse me, you need to introduce yourself for the record.

Mr. Hara: I am sorry. My name is Sherwood Hara.

Chair Furfaro: Thank you, Mr. Hara.

Mr. Hara: I am a citizen of the County of Kaua'i. Mr. Pasion has fulfilled his responsibilities and duties as the County Auditor. Let me put it this way—with the integrity and honesty that we, people of the County of Kaua'i, can expect and should expect from any auditor, Mr. Pasion has delivered that. I am here to speak for him in support of him because I realize that you are

going to have an Executive Session following the Council Meeting to address some of the things about Mr. Pasion's performance and your expectations. I am here to bring focus on your Executive Session. The question is, "What do you expect from the Auditor's Office?" I would assume that you would expect honesty, integrity, and truth. I feel that this is what the people of the County of Kaua'i would expect from you, from the County Auditor's Office, and from any elected office that or any executive office in the County. I come here to put focus on that, that when you go into Executive Session, that you keep focus on what Mr. Pasion has brought to the County Auditor's Office. I expect and I hope that he will continue to be allowed to continue his role as the County Auditor because he has brought exactly those characteristics to the Office.

Chair Furfaro:

Thank you, Mr. Hara. Next speaker, please.

JOE ROSA: Good morning, members of the Council. For the record, Joe Rosa. I sent out a letter with three (3) words that I think should be considered overall for Mr. Ernie Pasion as our County Auditor. In 2008 when this Office was given and established by way of the voters on a Charter Amendment, Mr. Pasion applied for it. In doing so at that time, there was a lot of vigor in him to do that or get into that Office. When he went to work or came to work, he put a lot of time and he was very enthusiastic with his work to get it done and do the things that would better his work, his Department, and the County of Kaua'i. I emphasize that; the County of Kaua'i and the people of Kaua'i. It took a lot of courage, not only courage, but guts to uncover a lot of the things that he did in his audits that I have read so far...six (6) of them. I think it deserves merit to show the honesty and integrity of Mr. Ernie Pasion in his Office. Sure, he is rocking some boats and some people are being affected, but that is where honesty comes in. In an editorial from last week Friday, it says the title—and the Mayor seems to be that he cannot stand the heat. If you cannot stand the heat, he gets out of the kitchen. That shows and proves that people are following the County Administration and the Office of Ernie Pasion. I just hope that those audits that were printed would be made public so the people can see how valuable the Auditor's Office has been in uncovering a lot of discrepancies, such things as the evaporation of gasoline, which was ridiculous at first. Then it was made and found out. It was some way along the "local boy style." All in all, I also would like to leave you with two (2) words when thinking of doing away with Mr. Pasion's Office; those are the words of "just cause." It cannot be anything to do with personalities with any of the members of the Council or the County Administration. It has to be with just cause.

Chair Furfaro:
Joe.

Thank you. That is your three (3) minutes,

Mr. Rosa:

Thank you.

Chair Furfaro:

Next speaker, please.

JOSE BULATAO, JR.: Good morning Councilmembers. My name is Jose Bulatao, Jr., a retired dinosaur from Kekaha. Clarity, transparency, and accountability—were these not the very reasons why the reestablishment of a County Auditor's position came to be in response to a mandate expressed by the voting constituency of Kaua'i? We have been very fortunate, indeed, to have in our midst Ernesto "Ernie" Pasion, who has performed his duties exceedingly well with focused intensity. In spite of having such a person and such a Department, there appears to be a movement to diminish its role and its purpose. Would it not be to

the advantage of our public officials and the various Departments in which their jobs are performed to be monitored and/or reviewed and to see where and how performance levels may be improved and to analyze and determine whether cost-effective and savings may be realized? The age of information has made it possible for the public to access information with greater ease through the availability of tech systems and devices so readily available. With that said, it is crucially essential to retain Ernie as Auditor with the appropriate support of staffing positions needed as requested. It is as pure and simple as that. Thank you very much.

Chair Furfaro: Thank you. Next speaker, please. Come right up, Ken.

KEN TAYLOR: Good morning, Chair and members of the Council. My name is Ken Taylor. I turned in some comments that consist of a letter to the editor of The Garden Island that was published on July 15th, a letter that I E-mailed to the Mayor and you Councilmembers on July 13th, and also includes an op-ed piece from Walter Lewis that was published in The Garden Island on the 12th of July. I will leave that stand as my comments in reference to the Auditor's Office. Thank you.

Chair Furfaro: Thank you. Come right up because you are the last speaker.

ELAINE DUNBAR: Elaine Dunbar for the record. I just want to point out a couple of things from the letter from Walter Lewis that kind of stood out. In June, the Association of Local Government Auditors completed a Peer Review of the Kaua'i Auditor's Office and concluded that "its systems were operating effectively and in compliance with Government Standards." Apparently, the Kaua'i Administration did not take kindly to the fact that some of its operations and practices were being criticized by the six (6) audits that were made. As Mr. Rosa stated a very important point, the decision should be based on "just cause," whether or not he is reinstated or the funds are reinstated. This County has had no problem giving tens of thousands of dollars to the Marathon, a private business. I was just wondering how that is working out for you guys? Hundreds of thousands of dollars are spent for outside Legal Counsel and maybe an Auditor could have curtailed some of the bleeds. The Office of the County Auditor is about efficiency and streamlined government. The State in the paper today—I do not know if anybody has had a chance to read it but they just discovered that over two hundred fifty million dollars (\$250,000,000) was wasted. The Auditor found that. JoAnn, at one time you told me—you made the comment, "Elaine, you just do not like Government." You could not be further from the truth. What I do appreciate is good Government. In order to have that, I do not see how you can without an Auditor. I am asking you to please reinstate the funds necessary to keep his Office running with whatever he needs. This is critical. Thanks.

Chair Furfaro: Thank you. Carole, you are the last of the speakers. We had seven (7) speakers today but we still have three (3) minutes left.

CAROLE NACION: Thank you. Good morning, Chair and members of the Council. This is *hana hou* for me. I have been here before and that was a testimony for myself. Today, I am here to speak on behalf of our parish, Holy Cross. You have heard my testimony on Mr. Pasion's character of integrity, honesty, and respect. Today you look in the audience and we have some

parishioners of Holy Cross parish, including our Pastor, Father Edison Pamintuan. That is how strong we are in supporting Ernie because he has been very instrumental and very important to our parish as a parishioner, and as a person himself. You may wonder because I mentioned "integrity, honesty, and respect." You must be wondering, what does that have to do with Ernie? A lot of things... everything. A person's character determines what kind of decision and actions that person would make at his workplace and in his personal life. I humbly ask you once again, *hana hou*, to keep an open mind in your decision regarding Ernie Pasion. My thanks again to all of you and keep up your good work. *Aloha*.

Chair Furfaro: Thank you, Carole. That will end the period of the Consent Calendar. I do want to share with all of you that according to our rules and 13(e) that was read earlier, when you speak during this consent time, you no longer speak during the meeting. Thank you very much for your comments. I would also like to point out that for your general information, the three (3) of the six (6) final audits will appear on the August 14th calendar. Again, a draft is submitted to us for review. Subsequently after comments, a final report is given. That final report on three (3) of the six (6) that were mentioned will be on August 14th. I also wanted to clarify something, that this Council adjusted the Auditor's Budget only by about forty thousand dollars (\$40,000) this past year. In fact, he carried about a two hundred thousand dollar (\$200,000) surplus from the previous year. I am not sure where the commentary is coming from on the Auditor's Budget being slashed. It was adjusted by forty thousand dollars (\$40,000) and it had about a two hundred thousand dollars (\$200,000) surplus from the previous year. Perhaps, we will have more dialogue at the August 14th Meeting. Thank you again for your comments. On that note, let us go to the Minutes that need approval.

There being no objections, the meeting was called back to order, and proceeded as follows:

MINUTES of the following meetings of the Council:

June 5, 2013 Special Council Meeting
June 12, 2013 Council Meeting
June 19, 2013 Special Council Meeting

Mr. Rapozo moved to approve the Minutes as circulated, seconded by Mr. Kagawa and unanimously carried.

CONSENT CALENDAR:

C 2013-244 Communication (06/17/2013) from the Director of Finance, transmitting for Council consideration, proposed amendments to Section 2, Ordinance No. 891, relating to the Authorization of the Issuance of General Obligation Bonds of the County of Kaua'i for the Purpose of Financing Certain Public Improvements and Refunding Certain Bonds of the County; Fixing or Authorizing the Fixing of the Form, Denominations, and Certain Other Details of Such Bonds and Providing for the Sale of Such Bonds to the Public: Mr. Rapozo moved to receive C 2013-244 for the record, seconded by Ms. Yukimura, and unanimously carried.

C 2013-245 Communication (06/18/2013) from the Boards and Commissions Administrator, transmitting for Council consideration, proposed amendments to Section 22-5.4 of the Kaua'i County Code 1987, as amended, Relating to the

Designation of Exceptional Trees, to correctly identify the boundaries of Exceptional Tree No. K-12: Mr. Rapozo moved to receive C 2013-245 for the record, seconded by Ms. Yukimura, and unanimously carried.

C 2013-246 Communication (06/18/2013) from the Boards and Commissions Administrator, transmitting for Council consideration, proposed amendments to Chapter 3, Article 1, of the Kaua'i County Code 1987, as amended, Relating to the Code of Ethics, to incorporate Charter Amendment language which was adopted during the 2010 General Election: Mr. Rapozo moved to receive C 2013-246 for the record, seconded by Ms. Yukimura, and unanimously carried.

C 2013-247 Communication (07/11/2013) from the Director of Finance, transmitting for Council consideration, proposed amendments to Chapter 5A of the Kaua'i County Code 1987, as amended, Relating to Real Property Taxes: Mr. Rapozo moved to receive C 2013-247 for the record, seconded by Ms. Yukimura, and unanimously carried.

Chair Furfaro: Please go to Communications, Mr. Clerk.

COMMUNICATIONS:

C 2013-248 Communication (05/01/2013) from Council Vice Chair Nakamura, requesting the presence of the Director of Economic Development, representatives from the Kaua'i Economic Development Board (KEDB), and consultant Alan Tang, to provide an update on the Comprehensive Economic Development Strategy (CEDS) – Creative Technology Center Business Plan.

RICKY WATANABE, County Clerk: Chair, we have had some housekeeping requests. First, on page 2, C 2013-248 regarding the update of the Comprehensive Economic Development Strategy (CEDS) Creative Technology Center Business Plan. We received a request from Councilmember Nakamura to defer this item until September 11, 2013.

Chair Furfaro: On that housekeeping item, let us give the floor to the Vice Chair. You made a request to defer the item?

Ms. Nakamura: Yes, thank you, Chair. I wanted to give the consultant additional time to finalize the draft business plan to share it with the user group made up of different stakeholders in the community to get feedback, to provide Councilmembers a draft plan to provide feedback, and then have the consultant come. That way, at least we have had a chance to look at the business plan and be prepared to ask him the hard questions. We have Mia Ako and Director Costa from the Office of Economic Development, if we have further questions, but at this time the intent is to ask for a deferral until September 11th.

Chair Furfaro: Okay. Councilmember Yukimura?

Ms. Yukimura: I have no problem with a deferral. I was just wondering whether we would be able to get a copy of the business plan before September 11th?

Ms. Nakamura: Yes. When the draft plan is done, it will go to the Administration, the Council, to the user group, and then for feedback. The idea is to get all of that feedback and then incorporate it into a final plan.

Ms. Yukimura: Good, thank you.

Chair Furfaro: So that is a motion to defer, JoAnn?

Ms. Yukimura: No, but I can make one if there is no further discussion.

Chair Furfaro: No further discussion? No public testimony?

Ms. Yukimura moved to defer C 2013-248 to the September 11, 2013 Council Meeting, seconded by Mr. Bynum, and unanimously carried.

Chair Furfaro: Mr. Clerk, let us continue on a few more housekeeping items, please.

There being no objections, C 2013-256 was taken out of the order.

C 2013-256 Communication (06/20/2013) from Council Chair Furfaro, requesting the presence of the Director of Planning, to provide the Council with a briefing on the status of the easement in the Kahuaina Subdivision from Falko Partners that was found to be in favor of the County of Kaua'i, which will provide pedestrian access to the shoreline.

Mr. Watanabe: For C 2013-256, we have a Legal Document that will appear on the July 31, 2013 Council Meeting. This involves the update on an easement from Falko Partners, Kahuaina Subdivision. There is a request to receive this in open session.

Mr. Bynum moved to receive C 2013-256 for the record, seconded by Mr. Hooser.

Chair Furfaro: Is there any discussion? Councilmember Yukimura.

Ms. Yukimura: We are receiving this because we will get a briefing some other time?

Chair Furfaro: On the 31st, yes.

Ms. Yukimura: Okay.

The motion to receive C 2013-256 for the record was then put, and unanimously carried.

Chair Furfaro: Mr. Clerk, please continue on the housekeeping items.

Mr. Watanabe: We have three (3) housekeeping items related to Executive Sessions. ES-635, relating to a briefing on the AOA of Kulana Subdivision. There was a briefing during the Special Council Meeting so there is no update necessary at this time. There is a request to receive that item. On ES-642, relating to Ricky Ball versus Kaua'i Lagoons Company, there is no update in the case. This item is also requested to be received in open session, along

with ES-643, Jeffery Sampoang versus Harvey Brothers. There is no update in this case so there is a request to receive it in open session. Three (3) items; ES-635, ES-642, and ES-643.

There being no objections, ES-635, ES-642, and ES-643 was taken out of the order.

EXECUTIVE SESSION:

ES-635 Pursuant to Hawai'i Revised Statutes (HRS) Sections 92-4, 92-5(a)(4), and Section 3.07(E) of the Kaua'i County Charter, the Office of the County Attorney, on behalf of the Director of Finance, requests an Executive Session with the Council to provide the Council with a briefing and request for approval of proposed tax compromise with AOA of Kulana Condominium, and related matters. This briefing and consultation involves consideration of the powers, duties, privileges, immunities, and/or liabilities of the Council and the County as they relate to this agenda item: Ms. Nakamura moved to receive ES-635 for the record, seconded by Mr. Bynum, and unanimously carried.

ES-642 Pursuant to Hawai'i Revised Statutes (HRS) Sections 92-4 and 92-5(a)(4) and (8), and Kaua'i County Charter Section 3.07(E), the purpose of this Executive Session is to provide the Council with a briefing in Ricky L. Ball vs. Kaua'i Lagoons Resort Company, Ltd., et al., Civil No. 12-1-0289 JKW (Fifth Circuit Court), and related matters. This briefing and consultation involves consideration of the powers, duties, privileges, immunities and/or liabilities of the Council and the County as they relate to this agenda item: Ms. Nakamura moved to receive ES-642 for the record, seconded by Mr. Bynum, and unanimously carried.

ES-643 Pursuant to Hawai'i Revised Statutes (HRS) Sections 92-4 and 92-5(a)(4) and (8), and Kaua'i County Charter Section 3.07(E), the purpose of this Executive Session is to provide the Council with a briefing in Jeffery Sampoang vs. Harvey Brothers, LLC, et al., Civil No. 12-1-0294 JKW (Fifth Circuit Court), and related matters. This briefing and consultation involves consideration of the powers, duties, privileges, immunities and/or liabilities of the Council and the County as they relate to this agenda item: Ms. Nakamura moved to receive ES-643 for the record, seconded by Mr. Bynum, and unanimously carried.

Chair Furfaro: Thank you. Mr. Clerk, take us back to page 2.

COMMUNICATIONS:

C 2013-249 Communication (06/13/2013) from the Director of Finance, transmitting for Council information, the Period 10 Financial Reports – Detailed Budget Report, Statement of Revenues (Estimated and Actual), Statement of Expenditures and Encumbrances, and Revenue Report as of April 30, 2013, pursuant to Section 21 of the Fiscal Year 2012-2013 Operating Budget Ordinance No. B-2012-736 of the County of Kaua'i: Ms. Nakamura moved to receive C 2013-249 for the record, seconded by Mr. Rapozo, and unanimously carried.

C 2013-250 Communication (06/27/2013) from the Director of Finance, transmitting for Council information, the Period 11 Financial Reports – Detailed Budget Report, Statement of Revenues (Estimated and Actual), Statement of Expenditures and Encumbrances, and Revenue Report as of May 31, 2013,

pursuant to Section 21 of the Fiscal Year 2012-2013 Operating Budget Ordinance No. B-2012-736 of the County of Kaua'i: Mr. Bynum moved to receive C 2013-250 for the record, seconded by Ms. Yukimura, and unanimously carried.

C 2013-251 Communication (06/21/2013) from the Director of Finance, transmitting for Council information, the Condition of the County Treasury Statement quarterly report as of May 7, 2013: Mr. Bynum moved to receive C 2013-251 for the record, seconded by Mr. Rapozo, and unanimously carried.

C 2013-252 Communication (06/19/2013) from the Executive on Aging, requesting Council approval to apply for, receive, and expend grant funds from Hawai'i Health Connector's Hi'i Ola Program's Marketplace Assister Grant in the amount of \$125,000 to provide assistance to consumers fifty-five (55) years of age and older with health care coverage in accordance with President Obama's Affordable Care Act for the following:

- Three (3) part-time and one (1) full-time equivalent positions, work-related equipment such as laptop computers, mobile phones with Wi-Fi access, training and related travel expenses, marketing, office supplies, interpreter/translation services for non-English speaking clients as needed, vehicle and ground transportation expenses, and administrative overhead.

Mr. Rapozo moved to approve C 2013-252, seconded by Ms. Nakamura.

Chair Furfaro: Is there any discussion? Vice Chair, you have the floor.

Ms. Nakamura: I just want to acknowledge the Agency on Elderly Affairs because I think this is a really good opportunity for the County to have a role in the implementation of the Affordable Care Act. Our County Agency can carry out the intent of the act on the island and provide the services to elderly folks to connect them to their health needs. I think they are the appropriate entity to carry out and deliver this service.

Chair Furfaro: Councilwoman Yukimura.

Ms. Yukimura: Yes, I agree with Council Vice Chair. The success of the Federal healthcare program depends on making these connections so that people know how to access the benefits of the Legislation. Our Office of Elderly Affairs, as usual, is taking a really proactive role. We have Kealoha in the audience. Thank you. We are just singing praises to you. They are taking a proactive role and really being aggressive in making these connections. It is a wonderful thing and we thank the Office of Elderly Affairs.

Chair Furfaro: Kealoha, may we ask you to come up? Mr. Kagawa has a comment or question for you. Kealoha, thank you for coming over. Mr. Kagawa, you have the floor.

Mr. Kagawa: Thank you, Kealoha. Thank you for applying for the grant and receiving it. Part of this grant is to provide transportation—is that travel expenses for Staff? Ground transportation?

There being no objections, the rules were suspended.

LUDVINA KEALOHA TAKAHASHI, Executive on Aging: The travel is for training.

Mr. Kagawa: For training, okay. If they are fifty-five (55) or older, what do they get help with by these workers?

Ms. Takahashi: These are for uninsured people. It is to help them to pick a medical insurance plan.

Mr. Kagawa: To help them apply for whatever services are out there?

Ms. Takahashi: Particularly, it is the health insurance, the Obama's Affordable Care Act.

Mr. Kagawa: Okay. This has been going on for some time?

Ms. Takahashi: No, it just started October 1st.

Mr. Kagawa: Just started October 1st.

Ms. Takahashi: Yes, it is a one-year grant.

Mr. Kagawa: Do we have like a lot of requests from people to Elderly Affairs? Do you expect a big workload?

Ms. Takahashi: This is the grant gap area for the uninsured. It could range from age twenty-six (26) and older. We are hoping to target people at the age of fifty-five (55) and older, but our doors are always open for any age.

Mr. Kagawa: Okay. Thank you.

Chair Furfaro: Mr. Rapozo, you have the floor.

Mr. Rapozo: Thank you, Kealoha, for being here today. I apologize because I did not get a chance to look at grant application. These three (3) part-time and one (1) full-time positions, is that temporary positions?

Ms. Takahashi: Yes. The full-time is an equivalent. We are using our present Staff, twenty-five percent (25%) of their time to help with outreach and helping with the form.

Mr. Rapozo: That is the full-time equivalent, and then for the three (3) part-time, we are going to hire three (3) people?

Ms. Takahashi: Yes.

Mr. Rapozo: Again, is that temporary just for the term of the grants?

Ms. Takahashi: Yes.

Mr. Rapozo: Just for the term of the grant?

- Ms. Takahashi: Yes.
- Mr. Rapozo: Okay. Thank you.
- Chair Furfaro: Anyone else have questions for Kealoha?
Vice Chair.
- Ms. Nakamura: When you hire the part-time people, you are just telling them that it is just for one (1) year for now?
- Ms. Takahashi: That is correct.
- Ms. Nakamura: Okay. Thank you.
- Chair Furfaro: Kealoha, I assume that those that are hired for part-time will in fact be working nineteen (19) hours or less per week?
- Ms. Takahashi: Yes.
- Chair Furfaro: Okay. Kealoha, thank you very much for all of your work. Vice Chair, you have the floor.
- Ms. Nakamura: Just to follow-up on Councilmember Kagawa's question, if you have someone who is under fifty-five (55) who is uninsured, you would be able to assist that person?
- Ms. Takahashi: Yes, we will.
- Ms. Nakamura: Do you envision any other entity providing that service on Kaua'i for fifty-five (55) and below under this program?
- Ms. Takahashi: We have Ho'ōla Lāhui, who has also applied for a grant as well.
- Ms. Nakamura: Would that be limited to Native Hawaiians?
- Ms. Takahashi: I am not sure.
- Ms. Nakamura: Okay. I think it would be good to understand, once the grants are awarded, that we will get a better picture of who is serving who. It is good if in this instance that you are open to serving everyone.
- Ms. Takahashi: Yes, we do not deny help to anyone or any age, especially for help in finding a good plan for themselves.
- Ms. Nakamura: Right. Do we know how many people are uninsured on Kaua'i?
- Ms. Takahashi: That is a good question. We do have a count of how many are uninsured for that target range but at this time, I cannot provide you with that information. I can provide it later on.
- Ms. Nakamura: Thank you very much.

There being no objections, the meeting was called back to order, and proceeded as follows:

Chair Furfaro: Again, thank you very much, Kealoha for all of your hard work, your Department, and for spearheading this grant.

The motion to approve C 2013-252 was then put, and unanimously carried.

C 2013-253 Communication (06/20/2013) from the Executive on Aging, requesting Council approval to receive, expend, and indemnify the State Executive Office on Aging for their intent to award State funds to the County of Kauai's Agency on Elderly Affairs for Fiscal Years 2013-2015 for the following:

- Provision of Kupuna Care services in the amount of \$1,016,412 or \$508,206 per State Fiscal Year.
- Provision of service to older adults who are at risk of elder abuse in the amount of \$45,220 or \$22,610 per State Fiscal Year.

Mr. Rapozo moved to approve C 2013-253, seconded by Mr. Kagawa.

Chair Furfaro: Members, are there any questions for Kealoha while she is here? Kealoha, may we have you back, please?

Mr. Kagawa: Thank you, Chair. Kealoha, I just wanted to get some information on State funding. How does this compare with the prior three (3) years? Or is it two (2) years?

There being no objections, the rules were suspended.

Ms. Takahashi: Two (2) years.

Mr. Kagawa: How does this compare? Did it go up or down?

Ms. Takahashi: Pretty much stayed the same.

Mr. Kagawa: Stayed the same?

Ms. Takahashi: Yes, we may have less funding but it has been the same amount.

Mr. Kagawa: The Kupuna Care takes care of what kind of things?

Ms. Takahashi: Personal care, homemaker, home delivery meals, transportation, and case management.

Mr. Kagawa: I just have to say, and I think I said it during Budget, but my grandma got the benefit of Elderly Affairs like going and visiting, keeping her company, bringing her food, and helping her clean the house. It was a tremendous service. You have people that do a great job.

Ms. Takahashi: Thank you.

Mr. Kagawa: I just want to make sure that the State continues to help us with the fair share because it is a State and County problem. We want to work together and continue it. Is the meals affected by Kupuna Care?

Ms. Takahashi: Yes.

Mr. Kagawa: How do we look for the weekends? How long are we planning to go on the weekend meals?

Mr. Takahashi: The weekend meals were already discontinued.

Mr. Kagawa: They are already discontinued?

Ms. Takahashi: Yes. We were okay. We did not have any adverse impact.

Mr. Kagawa: The people out there in the community...

Ms. Takahashi: They are fine.

Mr. Kagawa: They are okay?

Ms. Takahashi: Yes.

Mr. Kagawa: Okay. Thank you.

Chair Furfaro: Are there any other questions for Kealoha? Kealoha, you might as well stay there because the next two (2) grant items are yours as well.

There being no objections, the meeting was called back to order, and proceeded as follows:

The motion to approve C 2013-253 was then put, and unanimously carried.

C 2013-254 Communication (06/20/2013) from the Executive on Aging, requesting Council approval to receive and expend funds from the grant amendment awarded by the Corporation for National and Community Service to the County of Kaua'i's Agency on Elderly Affairs, Kaua'i Retired and Senior Volunteer Program (RSVP) in the amount of \$73,347, including the carry over amount of \$9,000 and a one-time augmentation of \$1,500, to assist the Kaua'i RSVP in carrying out a national service program as authorized by the Domestic Volunteer Service Act of 1973, as amended (Title 42 United States Code (USC), Chapter 22): Mr. Bynum moved to approve C 2013-254, seconded by Ms. Yukimura.

Chair Furfaro: I will suspend the rules if anyone has questions. Councilmember Bynum.

There being no objections, the rules were suspended.

Mr. Bynum: Hello, Kealoha. There were changes in what types of volunteer services that Kaua'i Retired and Senior Volunteer Program (RSVP) would provide, is that correct?

Ms. Takahashi: Yes, that is correct.

Mr. Bynum: Did that transition already happen?

Ms. Takahashi: Yes.

Mr. Bynum: It went okay?

Ms. Takahashi: Yes.

Mr. Bynum: Okay. Thank you very much.

Ms. Takahashi: You are welcome.

Chair Furfaro: Please note that there is no one in the audience who wishes to testify. Thank you.

There being no objections, the meeting was called back to order, and proceeded as follows:

The motion to approve C 2013-254 was then put, and unanimously carried.

C 2013-255 Communication (06/20/2013) from the Executive on Aging, requesting Council approval to receive, expend, and indemnify the State Executive Office on Aging for their award to the County of Kaua'i's Agency on Elderly Affairs of additional State funds in the amount of \$18,048 for the Kupuna Care Program services. A modification to contract KA2013A02 was processed to reflect the increase in funding which totaled \$293,994 in additional funding for the provision of personal care, homemaker, home delivered meals, case management and/or adult day health services: Mr. Rapozo moved to approve C 2013-255, seconded by Ms. Yukimura.

Chair Furfaro: I will suspend the rules. Councilmember Yukimura, you have the floor.

Ms. Yukimura: Thank you. Kealoha, it says in the letter "eighteen thousand dollars (\$18,000) additional," but it was actually an additional amount of two hundred ninety-three thousand dollars (\$293,000)?

Ms. Takahashi: These are actually funds that the State Legislature appropriated, besides the...

Ms. Yukimura: The additional Federal moneys?

Ms. Takahashi: No, these are just State funds.

Ms. Yukimura: Both are State?

Ms. Takahashi: Yes.

Ms. Yukimura: The two hundred ninety-three thousand dollars (\$293,000) was initially added or is that a regular funding?

Ms. Takahashi: No, it is additional added. It is just that we had some unexpended funds that we wanted to use.

Ms. Yukimura: Okay, so it is a total of two hundred ninety-three thousand dollars (\$293,000), the eighteen thousand dollars (\$18,000) plus...

Ms. Takahashi: Yes. This is not the base amount that we usually get. This was additional that was appropriated from the State Legislature.

Ms. Yukimura: The base amount is...that is the one we originally received?

Ms. Takahashi: Yes.

Ms. Yukimura: You are getting a fifty percent (50%) increase this year?

Ms. Takahashi: This was past years that we received. This was just an unexpended amount that they said we could carry over.

Ms. Yukimura: The eighteen thousand dollars (\$18,000) was?

Ms. Takahashi: The eighteen thousand dollars (\$18,000), yes.

Ms. Yukimura: But the larger amount was also additional?

Ms. Takahashi: Yes, besides our regular State-funded amount.

Ms. Yukimura: Does that mean that this year you are getting about fifty percent (50%) more moneys?

Ms. Takahashi: We are hoping that we do have an additional amount, but we have not heard yet. It depends if the Governor has released at the added funds.

Ms. Yukimura: When you get these fairly large chunks of extra money, are you able to administer them with your existing Staff?

Ms. Takahashi: Yes.

Ms. Yukimura: Okay. That is wonderful.

Ms. Takahashi: It usually goes to services.

Ms. Yukimura: Yes. The money goes to services and again, that is a testament to your Staff. Thank you.

Chair Furfaro: Vice Chair, you have the floor.

Ms. Nakamura: With the additional funds, is the intent to help more elderly people or provide more services to the existing pool of clients that you serve?

Ms. Takahashi: It could go both ways, both to help more people, and then to provide existing services to the clients that we now serve. It could go either way.

Ms. Nakamura: Now you have more flexibility to provide additional services?

Ms. Takahashi: Yes.

Ms. Nakamura: Would that include weekend meals?

Ms. Takahashi: Yes.

Ms. Nakamura: Are you considering that or are there other needs that take a higher priority?

Ms. Takahashi: Yes. We are looking at personal care and other areas where it shows a high need or where we have a wait list.

Ms. Nakamura: Okay. Thank you.

Ms. Takahashi: You are welcome.

Chair Furfaro: JoAnn, you have the floor.

Ms. Yukimura: Is this need based? Are there need based qualifications or income based qualifications, or is anyone who is elderly qualified for the services?

Ms. Takahashi: We do have a set of eligibility criteria for Kupuna Care funding. It is based on need and their income status as well.

Ms. Yukimura: Okay. That is good. Thank you.

Chair Furfaro: Mr. Hooser, you have the floor.

Mr. Hooser: Good morning. I have a question and I probably should know this already, but I cannot recall the answer so I will ask you. The Office of Elderly Affairs is kind of a blend with a lot of State and Federal funds and housed under the County umbrella.

Ms. Takahashi: Yes.

Mr. Hooser: Who directly manages you or your Office? Is it the Mayor?

Ms. Takahashi: Yes, the Mayor.

Mr. Hooser: The Assistant to the Mayor, Mr. Heu or the Mayor, would meet with you, go over your Budget, and go over your goals and the program?

Ms. Takahashi: Yes.

Mr. Hooser: Do they do that on a regular basis?

Ms. Takahashi: Yes.

Mr. Hooser: Okay. Thank you.

Chair Furfaro: Any further questions? If not, Kealoha, thank you for your participation today. I think that is last item so I will let you vacate the seat. Thank you very much.

Ms. Takahashi: Thank you.

There being no objections, the meeting was called back to order, and proceeded as follows:

The motion to approve C 2013-255 was then put, and unanimously carried.

C 2013-257 Communication (07/03/2013) from the County Attorney, requesting Council approval to expend funds up to \$5,000 for Special Counsel's continued services provided for in the claim against the County of Kaua'i, filed by Shane N. Matias on June 2, 2010 and related matters.

Mr. Watanabe: We have an Executive Session scheduled for this item. We can move this to the end of the agenda.

Chair Furfaro: We will move this to end as we come out of Executive Session.

Mr. Watanabe: Okay. That brings us to C 2013-258.

C 2013-258 Communication (06/14/2013) from the Chief of Police, requesting Council approval to accept a donation of a twenty-four (24) inch by thirty-six (36) inch (National Institute of Justice (NIJ) Level IIIA) Diamond Lite Ballistic Shield from Point Blank Enterprises, Inc. valued at \$2,350, for use by patrol officers as the need arises: Mr. Bynum moved to approve C 2013-258 with an appropriate thank-you letter to follow, seconded by Ms. Yukimura, and unanimously carried.

Mr. Watanabe: Chair, on page 5, this item also involves an Executive Session item, ES-657. We can move that one to the end of the calendar, also.

Chair Furfaro: Okay.

Mr. Watanabe: This brings us to the Legal Document.

LEGAL DOCUMENT:

C 2013-260 Communication (07/10/2013) from the Chief of Police, recommending Council approval of a Right of Entry Permit and indemnification of Grove Farm Company, Inc., or any of its affiliates (including/without limitation to Mahaulepu Farm, LLC; Haupū Land Company, LLC; Haili Moe, Inc.; Visionary, LLC; and Lihū'e Land Company) for Right of Entry access at Grove Farm Company, Inc.'s "Old Kōloa Camp." Mr. Bynum moved to approve C 2013-260, seconded by Mr. Hooser.

Chair Furfaro: Anyone here to testify on this Legal Document? You have a question? Go right ahead. The rules are suspended for the Lieutenant.

There being no objections, the rules were suspended.

Mr. Kagawa: Thank you, Lieutenant. Thank you, Chair. I have a quick question. In a nutshell, what is the reason that we need to get this Right-of-Entry Permit and indemnification from Grove Farm?

KAREN KAPUA, Lieutenant: Good morning, I am Lieutenant Karen Kapua, Kaua'i Police Department. It is to provide us access to conduct training.

Mr. Kagawa: To conduct training in there. Okay. Thank you.

Chair Furfaro: Is there any further questions for the Lieutenant? If not, Lieutenant, thank you very much for being here. I will call the meeting back to order. We have a motion to approve. JoAnn, discussion?

There being no objections, the meeting was called back to order, and proceeded as follows:

Ms. Yukimura: I just want to say that this request has a lot of emotional connections because it is about "Old Kōloa Camp" where people were evicted from their homes. At this point, there is no reason not to approve, but it I do want to express my sadness about the fact that people no longer live there.

The motion to approve C 2013-260 was then put, and unanimously carried.

CLAIMS:

C 2013-261 Communication (06/20/2013) from the Deputy County Clerk, transmitting a claim filed against the County of Kaua'i by the Kaua'i Humane Society, for reimbursement, pursuant to Section 23.06, Charter of the County of Kaua'i: Mr. Kagawa moved to refer C 2013-261 to the County Attorney's Office for disposition and/or report back to the Council, seconded by Mr. Bynum, and unanimously carried.

C 2013-262 Communication (07/03/2013) from the Deputy County Clerk, transmitting a claim filed against the County of Kaua'i by Ronald J. Barretto, Sr., for funeral expenses, personal injury, medical costs, and emotional distress, pursuant to Section 23.06, Charter of the County of Kaua'i: Mr. Kagawa moved to

refer C 2013-262 to the County Attorney's Office for disposition and/or report back to the Council, seconded by Mr. Bynum, and unanimously carried.

C 2013-263 Communication (07/05/2013) from the Deputy County Clerk, transmitting a claim filed against the County of Kaua'i by Garden Isle Disposal, Inc., for damages to their vehicle, pursuant to Section 23.06, Charter of the County of Kaua'i: Mr. Kagawa moved to refer C 2013-263 to the County Attorney's Office for disposition and/or report back to the Council, seconded by Mr. Bynum, and unanimously carried.

C 2013-264 Communication (07/05/2013) from the Deputy County Clerk, transmitting a claim filed against the County of Kaua'i by Katherine Ramos, for damages to her vehicle, pursuant to Section 23.06, Charter of the County of Kaua'i: Mr. Kagawa moved to refer C 2013-264 to the County Attorney's Office for disposition and/or report back to the Council, seconded by Mr. Bynum, and unanimously carried.

Chair Furfaro: Mr. Clerk, I have a footnote. I would like to get a briefing from the County Attorney on Section 23.06 of the Kaua'i County Charter regarding the claim by the Kaua'i Humane Society in the very near future, please.

Mr. Watanabe: So noted. Next, we are going to Committee Reports on page 6.

COMMITTEE REPORTS:

PLANNING COMMITTEE:

A report (No. CR-PL 2013-05) submitted by the Planning Committee, recommending that the following be approved as amended on second and final reading:

"Bill No. 2483 – A BILL FOR AN ORDINANCE AMENDING CHAPTERS 7, 8, AND 9, KAUAI COUNTY CODE 1987, AS AMENDED, RELATING TO THE ADJUSTMENT OF VARIOUS PERMITTING CHARGES AND FEES LEVIED BY THE DEPARTMENT OF PLANNING (County of Kaua'i, Applicant),"

Ms. Nakamura moved for approval of the report, seconded by Ms. Yukimura, and unanimously carried.

ENVIRONMENTAL SERVICES / PUBLIC SAFETY / COMMUNITY ASSISTANCE COMMITTEE:

A report (No. CR-EPC 2013-07) submitted by the Environmental Services / Public Safety / Community Assistance Committee, recommending that the following be approved as amended on second and final reading:

"Bill No. 2486 – A BILL FOR AN ORDINANCE AMENDING CHAPTER 16 AND CHAPTER 19, KAUAI COUNTY CODE 1987, AS AMENDED, RELATING TO ABANDONED VEHICLES,"

Mr. Bynum moved for approval of the report, seconded by Ms. Yukimura, and unanimously carried.

PUBLIC WORKS / PARKS & RECREATION COMMITTEE:

A report (No. CR-PWPR 2013-17) submitted by the Public Works / Parks & Recreation Committee, recommending that the following be received for the record:

“PWPR 2013-11 Communication (04/04/2013) from Committee Chair Kagawa and Council Chair Furfaro, requesting the presence of the Director of Parks and Recreation to provide an update on the repair and maintenance of the swimming pool facilities located in Kapa‘a and Waimea, along with the status of the plans to relocate the Kapa‘a Swimming Pool to a new location,”

Mr. Kagawa moved for approval of the report, seconded by Ms. Yukimura.

Chair Furfaro: Mr. Kagawa, you have the floor.

Mr. Kagawa: Thank you, Mr. Chair. May I ask for a short, personal privilege?

Chair Furfaro: Sure.

Mr. Kagawa: I have been very troubled by people in the community as I go out to any function. This weekend I went fishing at ‘Anini because the ‘Oama is biting. I had a couple of people come up to me, who both of them used to work for the County, the Layosas who recently retired. They did not want to bother me by relaying this kind of news when we are just relaxing with family. They told me that the bathrooms at ‘Anini Beach—the one by the boat ramp, both mens and womens, were just filled with feces all over. I do not know if it is a septic problem or if it is just too much volume of use, but this is not the only instance. My brother-in-law guys went to the boat race and canoe races at Hanalei the other week, and they, like the Mayor, saw how bad the restrooms were. It just comes to the point where people are just really dismayed by our performance. I do not know if it is not—we are not ready for the big crowds. We are not ready for the large amount of campers and having more routine checks. We had Lenny up here in my Committee. I know members were quite concerned with some of the responses. I think we have to stay on top of it and we have to look for better solutions. It is happening over and over again, every week. I am sure all of you are getting the same complaints island wide. I just wanted to mention that. I will try and put as much as I can in my Committee. Let us go *ala carte* because I know it is not fair to Lenny to ask him island wide about problems. It is good if we notify him at least two (2) weeks in advanced for what park we are asking for and what information. I just wanted to let Councilmembers know that my goal is to put on the agenda every time I hear a bad report. At least the public knows that we do hear them. We are trying to find a better solution and we are trying our best.

Chair Furfaro: Thank you for those comments and concerns. I think we should send some correspondence and your experience over to the Parks Department. I think that we also need to recognize that this is peek citizens recreational time. This is summertime and the kids are out of school. Parks are full. Camping permits are issued. This needs to surface again as a reminder of the extra needs and the attentiveness to the condition of some of the public restrooms. We will send something over in writing. Vice Chair Nakamura, you have the floor.

Ms. Nakamura: Thank you, Councilmember Kagawa, for that comment. Based on the discussion last week, it seems that it is a systems wide problem. I think there needs to be a system wide solution. We can take it case by case, but I think it is a larger management concern. I am not sure—I think the Director said that they are waiting for the Park's Planner to come on board to assist with coming up with a repair and maintenance plan, but I think there needs to be some discussion about the approach and what do we do now until we come up with the plan? That might take a little while, but I think we need to have further discussions about what management needs to do to address this concern? It is island wide.

Chair Furfaro: Please note in our communication to the Parks Department, I think it would be appropriate to have them in a very near term and have them make us a presentation on the staffing guides for the parks, so that we understand what resources are there for manpower. That will be a future agenda item in Mr. Kagawa's Committee. Again, thank you for your commentary.

The motion to approve Committee Report CR-PWPR 2013-17 was then put, and unanimously carried.

COMMITTEE OF THE WHOLE:

A report (No. CR-COW 2013-12) submitted by the Committee of the Whole, recommending that the following be approved as amended on second and final reading:

“Bill No. 2487 – A BILL FOR AN ORDINANCE APPROVING A COLLECTIVE BARGAINING AGREEMENT FOR BARGAINING UNIT 1 BETWEEN JULY 1, 2013 AND JUNE 30, 2017,”

Mr. Rapozo moved for approval of the report, seconded by Ms. Yukimura, and unanimously carried.

A report (No. CR-COW 2013-13) submitted by the Committee of the Whole, recommending that the following be approved as amended on second and final reading:

“Bill No. 2488 – A BILL FOR AN ORDINANCE APPROVING A COLLECTIVE BARGAINING AGREEMENT FOR BARGAINING UNITS 2, 3, AND 4 BETWEEN JULY 1, 2013 AND JUNE 30, 2015,”

Mr. Rapozo moved for approval of the report, seconded by Ms. Yukimura, and unanimously carried.

Chair Furfaro: Before we go into the Resolution, I am going to ask to take a fifteen (15) minute recess so that if anyone wants to do some research on their own before we get into the Resolution, they have the time to do it now. We will be back at 10:25 a.m.

There being no objections, the meeting was recessed at 10:10 a.m.

The meeting reconvened at 10:31 a.m., and proceeded as follows:

Chair Furfaro:
Resolution No. 2013-56.

We are back from recess. Let us go to

RESOLUTION:

Resolution No. 2013-56 – RESOLUTION CONFIRMING MAYORAL APPOINTMENT TO THE BOARD OF WATER SUPPLY (*Hugh A. Strom*): Mr. Kagawa moved for adoption on Resolution No. 2013-56, seconded by Mr. Rapozo.

Chair Furfaro:
will recognize you first.

Is there any discussion? Ms. Yukimura, I

Ms. Yukimura: There is probably no one more qualified, in terms of credentials, to sit on the Water Board. Hugh Strom—his expertise in water systems and utility management is unquestioned. I acknowledge Mr. Strom for offering himself and his expertise to help. I know that his main motive is to serve and use his knowledge for the betterment of Kaua'i. He has also been very gracious in the face of questioning. However, the source of his expertise—he has worked with Aqua Engineers...is also the source of what appears to me to be a pervasive, potential conflict of interest in three (3) major ways. First, the work that Aqua Engineers does overlaps in part with the Water Department's work. Both Aqua and the Water Department depend on water systems. They manage water systems for income. That makes the Water Department and Aqua Engineers competitors of sort. Secondly, many of Aqua Engineers' clients come from before the Water Department and the Water Board. This includes not only six (6) clients for whom Aqua manages private water systems, but includes many clients for whom Aqua manages sewage treatment systems. Many of the AOAOs—that is the condo associations, the Hyatt, Kukui'ula, and others.

When I spoke to Mr. Strom, he recognized the nature of that kind of conflict. He assured me that he will recuse himself anytime a client of Aqua Engineers comes before the Water Board. He saw thought it would be in Aqua's interest to please their client, but he also saw that to do his job on the Water Board might require him to vote against Aqua's clients. Recusal would get Mr. Strom out of offending anyone; however, it also gets him out of doing his job as a Water Board member. Recusal is appropriate, but only if it happens infrequently. Frequent recusal renders a board member unable to do the job he was appointed to do. The third way that there is a potential conflict of interest is a few of Aqua clients have major interest and issues before the Water Board. We need a board member who can act on these issues. What comes to mind is Carol Suzawa and how she was both as Chair and as a member of the board. Such an advocate for the rate payers and for the water system. If the conflict of interest prevents Mr. Strom from acting on these issues, he will not be able to perform his work as a board member. It would be as if Jonathan Chun, a land use lawyer with great expertise in planning and land use, would be appointed to the Planning Commission. Jonathan's expertise would be of great help to the Planning Commission, but only if there would not be many potential conflict of interest situations, which there would be if measured by the number of clients of Jonathan's law firm that appear before the Planning Commission, or are affected by the policy decisions made by the Planning Commission. Let me say here that conflict of interest is not about a person's integrity or lack thereof. Conflict of interest is a situation that is inherent in certain factual circumstances. Basically, defined as "having to serve two (2) masters," which is not possible, no matter how honest someone is. By definition, if

there is a conflict, if you do something that is right by one (1) master, it will be wrong by the other. There is a fiduciary duty that Mr. Strom has to both Aqua Engineers and to the Water Department, if he is selected as a board member. In trying to judge how pervasive Mr. Strom's conflict would be, I researched the major decisions that the Water Board is likely to make in the next year or two (2), and found that in many cases, it would be appropriate for Mr. Strom to recuse himself. For example, any time the board is planning or negotiating to acquire a private water system, there is a potential conflict because the option of staying private would mean that there is a potential customer for Aqua Engineers. Any time the board has to approve private water systems and they do have to approve private water systems as a substitute for the public water system—again, this is involving a potential Aqua Engineer's customer. Any time the board is contemplating condemning land to add to its public water system, there is a conflict with the landowner is a client of Aqua Engineers. There is a major decision that the board is to make about the development fee, which is also known as the "Facilities Reserve Charge." This is a major policy decision. Approval of a sufficient facilities water reserve charge will keep the fund from going bankrupt. This is critical to the Water Department's system. It will also enable the Water Department to provide another source of potable water for Lihu'e, where right now, Grove Farm is the only provider. It will affect Grove Farm. Grove Farm has a huge stake in this and Aqua Engineers has a "no-bid contract" worth two hundred fifty thousand dollars (\$250,000) a year with Grove Farm Company. Mr. Strom would need to recuse himself from this major Water Board decision, which will affect Grove Farm, which Aqua Engineers has a no-bid contract in the amount of two hundred fifty thousand dollars (\$250,000). This will take away from him doing his job as a Water Board member.

Then there is a decision about the horizontal drilling project, which has the potential to eliminate huge fossil fuel based pumping fees, which will benefit the rate payers tremendously in the future and yet, it has the potential to generate many environmental impacts. It is a tough decision. It is a major policy decision that the Water Board those make. Mr. Strom will have to recuse himself because Aqua Engineers has a no-bid contract to run the Surface Water Treatment Plant, which would be shutdown, or is proposed to be shutdown if the horizontal drilling project is successful. Being unable to vote on major issues before the Water Board, it is my feeling that Mr. Strom will not be able to fulfill the responsibilities of a board member. "Recusal" means that a person does not take part in the discussions on or off the table, so side lobbying is a violation of recusal. It is very hard to enforce this on a case-by-case basis. To me, this is an inherent problem. I am eager as anyone to have Mr. Strom's expertise work in the County, but with his pervasive conflict of interest, the County and the people of Kaua'i will not be able to access his expertise in practice for the public good. This is not Mr. Strom's fault. It is inherent in the circumstances. That is why I am not able to confirm Mr. Strom's nomination today. I want to note that two (2) members of the Ethics Board, the Chair and one (1) other member, dissented from the Ethic's Board majority decision clearing Mr. Strom. In my opinion, the majority of the Ethics Board did not look deeply at this issue. In there opinion, they cite Section 20.03(A) that "the County shall not enter into my contract with an officer or employee or with a firm in which an officer or employee has substantial interest involving services or property of value in excess of \$1,000 unless the contract is made after competitive bidding." In this case, the County has a contract with Grove Farm, but Grove Farm in implementing the contract with the County has a no-bid contract without competitive bidding with Aqua Engineers. To me, this falls under Section 20.03(A). Once Mr. Strom retires and divests himself from any major financial interests in

Aqua Engineering, I would welcome his service with open arms. It would be a wonderful day for Kaua'i because then we would be able to fully utilize his incomparable technical and administrative expertise on behalf of the public good.

Chair Furfaro:

Mr. Hooser.

Mr. Hooser: This is a difficult decision for me also. I want to commend Councilmember Yukimura for articulating my concerns so well and very valid concerns. I also have a difficult time confirming this appointment. I want to stress what has already been stressed that this is not about the integrity of the person. There is no question whatsoever but it places the individual in what I believe to be in an untenable situation of having fiduciary responsibility to two (2) different organizations, and just be stuck in this inherent conflict. I think it is a very real conflict and as much as any individual who would want to manage that, that the conflict will be there, both in reality and perception. I think the perception is also important. There is a very real conflict in my opinion so I will not be able to vote in support. Thank you.

Chair Furfaro:

Mr. Bynum, do you want the floor?

Mr. Bynum: Yes. I take very seriously the appointments to Boards and Commissions. I want to say that I believe that the Mayor in the last several years has done overall an outstanding job of bringing really qualified people to work on our Boards and Commissions. The Water Department is a unique commission in its make-up and in its responsibilities. It is unique in that our County Engineer and our Planning Director are both voting members on the Water Board. The other members are appointed by the Mayor with our agreement. In my opinion, the history of the people on the Water Board has been highly weighted to business interests over last five (5) or six (6) years. I have said to the Mayor as excellent as his appointments have been, he needs to really look closely at balance. On this particular Water Board, Mr. Strom, who I think is an outstanding candidate, who I have no questions about his integrity and his value to our community and his expertise, is wonderful. We could all learn a lot from him. JoAnn has done, as she typically does, really good research about some of the major decisions that are coming before the board. Currently, with Mr. Strom—my reasons are a little different for the uncomfortableness. The inclusion of Mr. Strom will continue a board that has virtually all members that are not County employees that are businessmen who have interests, whose clients have interest with the Water Board at times. That does not mean that they are not eligible but when the entire board is made up of those folks—Mr. Roy Oyama was on the board and it was important to have a farmer for many years because of the Ag water rates and how the Water Department impacts ag. He is no longer on the board. There are women members of the Farm Commission that could be good candidates for this position, but I am uncomfortable putting all business people making these decisions. We need a consumer advocate who who's role with the Water Department is as a rate-payer and not have other business interests to give balance to these decisions. JoAnn mentioned the Facilities Reserve Charge. There is a history of that at the Water Board where consultants have said that you need to increase this fee, so your current rate-payers are not subsidizing new construction and new facilities. This fee needs to be increased. It used to be a Council decision and the Council went against the consultants and kept the fees low, historically. That major decision is before this board and I am concerned that our current water rate-payers not be subsidizing new water services for new construction. Those are the types of major decisions that get to be made. For the first time ever, I am going to vote against a

nominee not because of the individual, but because of the lack of balance on this commission. I feel the same way about the Police Commission, that we need a consumer advocate and we need a woman on that commission. These balanced perspectives are what make these Boards and Commissions work really well. Having industry people with expertise is great for a board, but not the entire board. I want to apologize to Mr. Strom because I know his motives are pure and if he was not the fourth business member of the four (4) appointees, I would certainly be voting for him but not the fourth person in the same category at the expense of having a consumer advocate, a woman, or someone who does not have business interests with the same board that they act on. Thank you.

Chair Furfaro:

Mr. Kagawa.

Mr. Kagawa: Thank you, Mr. Chair. I want to thank Councilmember Yukimura for pointing out some of the reasons why she is not going to be supporting it. I am struggling with this a little bit; however, after looking at the make-up of the board, I think a candidate like Hugh fills a big gap in the side of the technical and construction side help that the Water Board could use. If you look at O'ahu, there has been two (2) water main breaks in the past month. One by was McCully and yesterday there was another big one. I am not sure where that happened but it was a geyser going up in the air. I know we have a lot of old lines in our system and we constantly patch and cover it up, then and a few weeks later we are digging it up again and patching again. Soon, we are going to have a geyser come out. We need some long-term planning and some expertise from the private sector so that we can address some of these things in an efficient manner instead of going out and doing patch work. I think Mr. Strom can provide some of the advice and help that the Water Board could use. I do not think one (1) person is going to control the voting of six (6) people voting. To me, when I look at the make-up of the board, you have Clyde Nakaya, Randy Nishimura, Sherman Shiraishi, Ray McCormick, and Larry Dill, who are the voting members. As well as I know, most of them, they are not going to be influenced the one (1) person trying to get what he wants because of his personal interests. I hear the concerns; however, I believe that he would be a good addition to something that is really important; a board that is really important. This is the most important board that we do not control in the County. When we have our bills each month that we pay—we have to pay our mortgage, we have to pay our car payments, we have our Real Property Tax, we have electricity, we have sewer, and of course, we have our water bill. It is that important. It is something that we all pay and we all are concerned about it. We need not only people from the business sector, people who just pay these bills and worry about these bills, we need people from the private sector who can help the Water Department in guiding them to be more efficient, to tackle problems in a long range manner that the private sector does tackle them. A lot of times in Government, we are the deep pockets, so we just do things. It is not about being efficient because no matter what we do, we do not get hired or fired. In private sector, if you do not cut it, you get fired. I think we need the private sector expertise. I think he would be one. Randy is on the construction side, but I think he gives that balance that we need in the long-term. Thank you, Mr. Chair.

Mr. Rapozo: I think Councilmember Yukimura brought up some valid concerns as well, but we just spoke earlier about the Parks Department and the lack of management, lack of expertise, and the reasons that we got some issues there. Councilmember Yukimura really laid out the qualifications of Mr. Strom, as far as his knowledge and experience. There is a question of the potential or pervasive, as Miss Yukimura says, conflict but I am satisfied with the

Board of Ethic's ruling that they rule there was no conflict and that, in fact, if there were issues that involved Mr. Strom in his personal capacity, he would recuse himself. If you look far enough, you all could find a conflict in each of us, every one of us on this Council, that there are matters that may be a conflict. Imagine if we disqualified everybody for having a conflict or a potential conflict because of your private work. I would expect Mr. Strom to perform in the best interest of the Water Department. I think the Charter is clear that that board manages the Water Department. It is unlike any other board that we have. One of the examples was Jonathan Chun. On the Water Board right now is Sherman Shiraishi. Sherman's firm takes care of a lot of developments. He takes care of a lot of projects that involves water. Are we going to vote him out? Of course not. I think we need to apply the same standard throughout and Mr. Strom. He will definitely have to recuse himself in some occasions, but I expect him, as I said earlier, to utilize the best judgment. I think Mr. Kagawa said it best. I cannot imagine one (1) person on the board controlling that board. I am going to support the appointment. I think we need to look at more opportunities to increase the technical knowledge and experience and the abilities to actually help the Water Department be managed in a more professional way. I think Mr. Strom has all the tools. I will be supporting the appointment. Thank you.

Chair Furfaro:

Vice Chair.

Ms. Nakamura: I was hoping that we would get a female candidate on this board. I am disappointed that we were not able to fill this position with a female candidate. Mr. Strom brings strong management background and strong technical background. In my conversations with him, I feel comfortable that he will recuse himself in all matters relating to areas where he has conflicts with Aqua Engineers. I am comfortable with the Board of Ethic's ruling. I think that if he in practice is not able to participate in votes and that it is pervasive that majority of votes—he cannot participate. If that is the case, I think at that time, he will choose to step down. I think he will make that choice and make those recusals where it is appropriate. I will be supporting this nomination.

Chair Furfaro:

Mr. Bynum.

Mr. Bynum: I just want to make sure that my position is clear that we mentioned other board members. Mr. Shiraishi—outstanding board member, but he is an attorney who has clients with business with the Water Board on occasion. Randy, who has served for a long time, great board member—he is a business person and he is the next person that I believe will be fulfilling an appointment. Looking to the future, please Mayor, look for a consumer advocate, a farmer, or a woman. All three (3) of those can be in one (1) person who does not have an ongoing business relationship with the board. I voted for Mr. Shiraishi, Randy, and Clyde, who is a banker. These are great people, but it is just that we cannot have every board full of business people with expertise who have a different perspective than a consumer, just by their nature of it. I think Mr. Strom will be an addition. It looks like he will succeed today in his vote, but I hope the Mayor is paying attention to the messages from Councilmembers to seek balance on these commissions in the future. I do not mean to sound critical because he has given us some really outstanding candidates. Thank you.

Chair Furfaro: Does anybody else wish to speak again before I speak? I want you to know that I know Hugh in a very professional manner. I dealt with him for eleven (11) years when his company contracted the wastewater

treatment facilities for my resort. In fact, he impressed me very much in being able to deliver the bad news to me as a customer when there were attempts that we wanted to improve systems and weighing out costs. He always seemed to give the right kind of strategic thinking to us. He certainly understands the moving parts and environmental issues that exist in the Water Department. At the same time, between Vice Chair Nakamura and Mr. Bynum, I understand their points about the Mayor needing to hear from the Council that going forward, it is appropriate for us to have a consumer advocate here. Now at the same time, I want to put on my hat and remind us all that we have a Planning Director, the State Department of Transportation, and the Engineer of the County on this board and at the same time, part of that reasoning is the fact that the County is the undersigning of any bond money that we loan to the Water Department. If things are not done appropriately in a fashion that is financially feasible, those challenges could end up right here on the County Council's table. Again, I want to say that to have someone with this kind of expertise with utility management and understanding some of the issues coming up with source finding for the assets of the Water Department, I feel comfortable. I feel comfortable that what the Ethics Committee did was point out some things, as did Councilmember Yukimura. I will be supporting this first term for Mr. Strom. Obviously, it gives me an opportunity to evaluate him again on a second term if some of these issues come up. I will be voting "yes," and on that note, I would like to call a rollcall vote.

The motion to adopt Resolution No. 2013-56 was then put, and carried by the following vote:

FOR ADOPTION:	Kagawa, Nakamura, Rapozo, Furfaro	TOTAL – 4,
AGAINST ADOPTION:	Bynum, Hooser, Yukimura	TOTAL – 3,
EXCUSED & NOT VOTING:	None	TOTAL – 0,
RECUSED & NOT VOTING:	None	TOTAL – 0.

Chair Furfaro: Thank you. That will give Mr. Strom the confirmation to be on the Water Board.

BILLS FOR FIRST READING:

Proposed Draft Bill (No. 2492) – A BILL FOR AN ORDINANCE TO AMEND SECTION 2, ORDINANCE NO. 891 AUTHORIZING THE ISSUANCE OF GENERAL OBLIGATION BONDS OF THE COUNTY OF KAUAI FOR THE PURPOSE OF FINANCING CERTAIN PUBLIC IMPROVEMENTS AND REFUNDING CERTAIN BONDS OF THE COUNTY; FIXING OR AUTHORIZING THE FIXING OF THE FORM, DENOMINATIONS, AND CERTAIN OTHER DETAILS OF SUCH BONDS AND PROVIDING FOR THE SALE OF SUCH BONDS TO THE PUBLIC: Mr. Kagawa moved for passage of Proposed Draft Bill No. 2492 on first reading, that it be ordered to print, that a public hearing thereon be scheduled for August 14, 2013, and that it thereafter be referred to the Committee of the Whole, seconded by Ms. Yukimura, and carried by the following vote:

FOR PASSAGE:	Bynum, Hooser, Kagawa, Nakamura, Rapozo, Yukimura, Furfaro	TOTAL – 7,
AGAINST PASSAGE:	None	TOTAL – 0,
EXCUSED & NOT VOTING:	None	TOTAL – 0,
RECUSED & NOT VOTING:	None	TOTAL – 0.

Proposed Draft Bill (No. 2493) – A BILL FOR AN ORDINANCE AMENDING SECTION 22-5.4 OF THE KAUAI COUNTY CODE 1987, AS AMENDED, RELATING TO DESIGNATION OF EXCEPTIONAL TREES: Mr. Kagawa moved for passage of Proposed Draft Bill No. 2493 on first reading, that it be ordered to print, that a public hearing thereon be scheduled for August 14, 2013, and that it thereafter be referred to the Environmental Services / Public Safety / Community Assistance Committee, seconded by Ms. Yukimura.

Chair Furfaro: Councilwoman Nakamura, do you want the floor?

Ms. Nakamura: Yes. I was just wondering if we could ask the County Attorney to come up to address a few questions. The reason why I am asking the questions now is just so that prior to the Public Hearing, the public understand the properties that are in question. Thank you for being here. I just wanted to clarify what is the change that you are proposing? What properties are you looking at?

There being no objections, the rules were suspended.

JODI A. HIGUCHI SAYEGUSA, Deputy County Attorney: Okay. Good morning, Jodi Higuchi Sayegusa, Deputy County Attorney. The properties in question are the *makai* side of Kūhiō Highway. Aleka Loop—the street that goes towards the ocean side...I think it passes those hotel properties. In that loop, there is that coconut grove. Those are the properties in question. A little bit of background related to this agenda item is that in 1976, that whole property was designated—let us see, that coconut grove within that property...I think it is K-12, I think it is on the Ordinance. By the passage of Ordinance No. 227, that grove was designated as an exceptional tree or exceptional grove. That in addition to other Tax Map Keys (TMK)s on the *mauka* side. Several groves were designated as exceptional trees. Those were described as TMK Nos. (4) 3-006-002 and then *makai* side was TMK (4) 3-007-027, TMK (4) 3-007-028, and TMK (4) 3-007-029. Subsequently in 1979, at the time the Planning Commission granted new preliminary approval to subdivide TMK (4) 3-007-029 into two (2) lots. In 1981, the final subdivision was granted so those two (2) lots were subdivided. The original designation had to do with that whole property. Subsequently, that property was subdivided into two (2) lots. This was just merely a housekeeping matter to kind of bring the Exceptional Tree Ordinance in line with the original designation, which was meant to be that whole parcel...those two (2) lots. That is why we are here today.

Ms. Nakamura: So both parcels TMK (4) 3-007-029 and TMK (4) 3-007-030?

Ms. Higuchi Sayegusa: Yes. That is the resulting two (2) TMKs after the subdivision in 1981. That refers to that area, that grove *makai* side of Kūhiō Highway and encased by that Aleka Loop Road.

Ms. Nakamura: That would be good for the public to see that.

Chair Furfaro: Scott is going to put it up.

Ms. Nakamura: Thank you for clarifying that and providing these maps, Jodi. The other thing is that did this come from the commission or the Arborist Committee?

Ms. Higuchi Sayegusa: Niupia did come on another related matter a couple of meetings ago. It was kind of uncovered that the Ordinance was not updated since 1981.

Ms. Nakamura: This recommendation came from an action made by the Arborist Committee?

Ms. Higuchi Sayegusa: It was not necessarily referred by the Arborist Committee, but it was other items. I think it was that they were going to remove fifteen (15) trees and replace them because some of the trees were dead and dying. At that time, when the matter came up before the Arborist Committee, that is when it was discovered that the Ordinance had not been updated. That was a couple of meetings ago.

Ms. Nakamura: Where did this come from if it was not...

Ms. Higuchi Sayegusa: This came from Boards and Commissions.

Ms. Nakamura: What does the Committee think?

Ms. Higuchi Sayegusa: The Committee recommended at the first or second meeting that the correction should be made to the Ordinance.

Ms. Nakamura: Okay. Thank you.

Chair Furfaro: Mr. Bynum, you have the floor.

Mr. Bynum: Is this the parcel that the Planning Commission just approved permits for Longs?

Ms. Higuchi Sayegusa: I am not sure. This is the parcel that it relates to but I am not sure what the status is in the Planning Commission. I cannot speak to what exactly happened to that at the Planning Commission.

Mr. Bynum: I just want to know if the Longs proposal generated this and what is the impact on their proposal if this is designated.

Ms. Higuchi Sayegusa: Right. On June 6th, the applicant came to the Arborist Committee with its preliminary plans for its development. I think the result of that was that the Arborist Committee forwarded the plans to you folks being that it is a designated grove. The Arborist Committee sent the entirety of the plans to you folks, being that it affects the designated grove. I believe because it was preliminary and because at time, the applicants wanted just input on how to—any input that the Arborist Committee can advise them on how to not affect the grove. At that time, it was just more of a for your information (FYI) thing. The understanding was once they have a finalized plan, perhaps they would be approached again and come to the Committee again.

Mr. Bynum: Let me just take a step back. If the grove is designated as historic or exceptional, that does not preclude them from developing

but it requires them to come up with a plan for preservation/replacement? Is that accurate?

Ms. Higuchi Sayegusa: That is accurate. If there are certain actions that would affect the designation, I would think that the Council is the deciding body on that.

Chair Furfaro: May I ask Mike to come up?

MICHAEL A. DAHILIG, Director of Planning: Mike Dahilig, Planning Director.

Mr. Bynum: Is it just coincidental that this is the Longs development and this is before us, or did the Longs development have us look at this and discover the problem?

Ms. Higuchi Sayegusa: I think it is somewhat coincidental. It was something that was a housekeeping matter that should have been done in 1981, and so right now we are here to correct the Ordinance to make sure that the Ordinance reflects the accurate description of the original designation in 1976.

Mr. Bynum: Mike, what is the status of the Longs proposal at the Planning Commission?

Mr. Dahilig: We do actually have an active application that is coming before the Planning Commission. The Director's Report will be received at the Planning Commission next week Tuesday and set for Public Hearing for the first meeting in August.

Mr. Bynum: Is that report available online?

Mr. Dahilig: It will be when the agenda is actually posted...today actually.

Mr. Bynum: Okay. I was surprised to see this. I read the news about Longs and wanted to know if it was related.

Mr. Dahilig: I cannot necessarily speak for the housekeeping matter but I would suspect that some of the questions about the legalities concerning the grove and how that needs to be handled in the context of development of this issue probably popped up in that discussion since that lot has been vacant for quite a while.

Mr. Bynum: Has this Ordinance been reviewed by the County Attorney's Office?

Ms. Higuchi Sayegusa: Yes, it has.

Mr. Bynum: I would assume but I wanted to ask. Thank you.

Chair Furfaro: Let me ask a couple of questions here, Mike. At the same time, give a little history here as I know it. In 1972, I was the Executive Assistant Manager for the old Sheraton Coconut Beach, which was

opened there. In 1976, this parcel was not favored as an expansion of the Plantation Hale because at time, the Plantation Hale was on the market as a leasehold property, and not fee-simple as it is converted to. This was all one (1) parcel for Plantation Hale. How did this piece get subdivided since they already applied for their one-time subdivision rule? This parcel was part of Plantation Hale Phase 4 and three (3) years after the Sheraton Coconut Beach opened, this parcel was subdivided again. How did that work in accordance with our one-time subdivision law?

Mr. Dahilig: That is a good question, Chair.

Chair Furfaro: I would like you to look into that. Also, I would like to share with you that there was a time when I attended a meeting there and granted, I was maybe twenty-five (25) or twenty-six (26) years old, but if I remember the discussion about this parcel was that it was going to be a compatible resort opportunity on that parcel, such as later building a gym, a spa, facial treatments, and things of that nature; not necessarily as a commercial neighborhood property that you would put a drug store on. Has anybody reviewed those? It was supposed to keep that "resort feel." I cannot remember but the gym, spa, and things of that nature seemed to have been in the discussion about that parcel back in 1976. Have we reviewed the records there?

Mr. Dahilig: We are not complete with the report. That is history that we can maybe look into.

Chair Furfaro: I am sorry. My history is a little vague here but I remember being a discussion about being compatible since it would be next door to resort condominiums and across the street from what eventually was thought of being maybe three (3) resort hotels, but at the time it was only the Kaua'i Beach Boy and the Sheraton Coconut Beach. You are going to research that? How did it get subdivided a second time?

Mr. Dahilig: Yes, how it got subdivided and the compatibility.

Chair Furfaro: Okay. I would like to ask you to look into that.

Mr. Dahilig: Yes, sure.

Chair Furfaro: JoAnn, you have the floor, and then Mr. Kagawa.

Ms. Yukimura: Thank you. On the map up there on the screen, is Longs going to be on one (1) of those lots? Or is proposed to be?

Mr. Dahilig: The proposal in terms of what the application states at this point—is I guess you would say the left-top corner of the map and one (1) parcel over to the right...the one (1) that looks kind of slightly oblong, almost like an upside down side review mirror.

Ms. Yukimura: Right. There are two (2) small parcels on the bottom and two (2) on the top, so to speak?

Mr. Dahilig: The one that Niupia Land Company has come in for application on is pertaining to this parcel right here.

Ms. Yukimura: That is where Longs Drugs is being proposed?

Mr. Dahilig: Correct.

Ms. Yukimura: Right now there are trees on it that are designated "exceptional."

Mr. Dahilig: That is correct. There is a grove that is designated, yes.

Ms. Yukimura: In order for Longs to put their drugstore there—they will need to tear down the trees or uproot the trees?

Mr. Dahilig: The proposal does have movement, replacement, and other activities that have been presented before the Arborist Committee, pertaining to the maintenance of that grove. Yes, there would be some...

Ms. Yukimura: Major...

Mr. Dahilig: I do not want to say "killing," but...

Ms. Yukimura: "Removal?"

Mr. Dahilig: "Removal" would be a better word.

Ms. Yukimura: The Arborist Committee does not have the power to stop it, right? The Ordinance I am looking at says that trees in a grove may be removed subject to approval of the County Planning Department. That is going to be part of the Planning Commission's or your decision?

Mr. Dahilig: That is something that we are aware of is our authority and in terms of looking at guidance on the measure. We are seeking guidance from the County Arborist Committee on it.

Ms. Yukimura: Okay. The action before us would implement a clear intention from 1979?

Ms. Higuchi Sayegusa: I think it was 1976.

Ms. Yukimura: 1976?

Ms. Higuchi Sayegusa: Ordinance No. 227.

Ms. Yukimura: That designated those lots as part of the exceptional tree designation?

Ms. Higuchi Sayegusa: Yes.

Ms. Yukimura: Okay. Thank you.

Chair Furfaro: Excuse me, before I recognize Mr. Kagawa, I think in that grove, there is at least—because we have had to treat those trees before with vitamins. There is at least a dozen and a half of those trees that are *make*. Am I correct?

Mr. Dahilig: In fact, prior to this inquiry by the landowner to the Arborist Committee, there was one (1) previous request to us and the Arborist Committee concerning removal of trees that were *make* because the trees have a certain life span. Given the hazardous nature of those trees, they were to remove them and then actually replace them with new seedlings.

Chair Furfaro: Mike, I think the nature of that virus—because I have been involved all the way to the Hilton—I think that virus in the palms actually can be transmitted to other trees. It is not just about age. It is about that virus. Mr. Kagawa, you have the floor.

Mr. Kagawa: Thank you, Mr. Chair. My question was where the location was for the new proposed Longs. The parcel on the left of that is not, just the one that is circled? That would include the store and the parking lot in just that lot?

Mr. Dahilig: In terms of what they proposed, yes. The proposal is to have everything inclusive on that parcel.

Mr. Kagawa: Well, I just want to say that I have some concerns about impact on traffic. We already have two (2) major shopping centers going in that cause a lot of the traffic, and we are just going to have another big pile of cars turning into this new Longs proposal. I just wanted to mention some of my concerns.

Mr. Dahilig: Just to assure you, we have routed the application to the State Department of Transportation, Highways Division, as well as the Department of Public Works, Engineering Division for their comments pertaining to issues like traffic. We are waiting for comments back from them.

Mr. Kagawa: My comment to that is that a lot of times the State is not the ones that really have to handle the traffic problems. I know they do contra flow and stuff, but it basically comes down to us a lot of times. We did the bypass. That has eased it, but that is not a long-term solution. We heard it many times from other Councilmembers. Thank you.

Chair Furfaro: Anybody want to speak for the first time before I recognize JoAnn? JoAnn, you have the floor.

Ms. Yukimura: Thank you. Just so the audience is clear, this lower lot to the left, even though it is marked as “exceptional trees,” it is actually the parking lot and the hotel of The Courtyard at Marriott, right? Maybe the trees in the parking lot are designated “exceptional,” but it is not like a grove. It is actually a developed property whereas the large parcel on the right is a grove. Right?

Chair Furfaro: It is the same grove, JoAnn. The parking stalls at the Marriott are in between trees. The template is laid out so they preserve the trees.

Ms. Yukimura: Yes, but if you look at the second picture, which is a photograph, it shows the lower left property as pretty much developed but the lower right property is really the grove, yet open space, yet trees, right?

Ms. Higuchi Sayegusa: Right.

Ms. Yukimura: Thank you. You see at the center of the screen are those two (2) upper lots. That is Kūhiō Highway. That is the upper road, and then in this lower right corner...

Chair Furfaro: That is The Courtyard. That is the parking lot and you can see the tops of the trees.

Ms. Yukimura: Right. That is pretty much a developed property, not really a grove of trees. The adjacent property to the right, as we were looking at the former map; the first map, is all grove.

Chair Furfaro: I want to tell you that when they developed that in 1972, there were only three (3) trees that were moved so that was the grove. The parking lot template fit over the...they moved three (3) trees.

Ms. Yukimura: That is really good history. Basically, you are saying that the parking lot was designed into the grove.

Chair Furfaro: Yes.

Ms. Yukimura: I see, thank you.

Chair Furfaro: Go ahead, Councilmember Nakamura.

Ms. Nakamura: The County Code says that it the Arborist Advisory Committee is created to advise the Council in determining which trees are to be designated "exceptional trees" by reason of historical or cultural value, aesthetic quality, endemic status, age, rarity, location, or size, and are to be preserved for posterity. This is a very important role to play and I will value their guidance on this matter, taking into account all of the criteria laid out in the Charter. I think it is important that we get a communication from the Arborist Committee that this is a grove that meets this criteria because that provides guidance to the County and to the Planning Department as to how to deal with this concern. I agree with Councilmember Bynum that this is tied very closely to the proposal before the Planning Department. I think we need to have that basic guidance in writing before this body to have clarity.

Ms. Higuchi Sayegusa: I believe that as a result of that last June 6th meeting, as part of the preliminary—the plan that was forwarded; the minutes also were? It was a June 12th transmittal from the Arborist Committee to the Council, kind of giving an update of the action on the June 6th, and forwarding the preliminary plans. We can also forward the minutes of their discussion discussing the tree and their preliminary plans at the time and any concerns that they may have.

Ms. Nakamura: The bottom line recommendation is that this is an exceptional grove of trees?

Ms. Higuchi Sayegusa: Yes.

Ms. Nakamura: Thank you.

Chair Furfaro: Mr. Bynum.

Mr. Bynum: Sorry if I am being redundant, but when the Coconut Beach Hotel was developed, that was an exceptional grove already?

Ms. Higuchi Sayagusa: I am sorry...

Mr. Bynum: Let me reframe the question. If it does not preclude development, it just puts a layer that says you have to look at this historic value of the trees and save whatever you can or come up with some plan to recognize that significance? It does not preclude—if we pass this, it does not say, “No development can ever happen there,” does it?

Mr. Dahilig: Again, this is not an area of law that I am familiar with if I am wearing my former hat, but I know that there is also a tax interface with this. I do not know exactly how that works. In terms of how development precedes on an area that has been designated as a grove, as compared to...

Mr. Bynum: An individual tree?

Mr. Dahilig: An individual tree. What you are alluding to with respect to the construction across the street, whether there that was a grove before the Marriott put in the parking lot and it was designated as such, I am not familiar with that if that is the case. That could be a template for us to look at in analyzing these applications. Again, I am not familiar with the history—as the Chair has stated, there is some history with respect to how that parking lot was designed and that might have to come into play here.

Mr. Bynum: Not often is a parking lot an asset to a property, but that one is. If this is designated an exceptional grove, does that preclude development on the property?

Mr. Dahilig: Not necessarily, but how it is done, I think we have to analyze it with an abundance of caution because of the designation. Certainly, as Councilmember Yukimura has pointed out, groves from a maintenance standpoint do fall into more of an administrative purview, versus a singular tree. That is why there is some question as to how to treat this application. That is what we are going to be addressing once the report is released.

Mr. Bynum: Even at this process, the developer has said, “Here is our plan for preserving as many trees as possible.” Did I hear that in this discussion? They have already kind of recognized that these trees have significance and that they need to address that.

Ms. Higuchi Sayegusa: Right. We did mention at the last Arborist Committee Meeting was that a lot of these trees are already at the end of their life span and a lot of them are decaying. I am not exactly sure where on that parcel those trees happen to be. If the proposed development is in that area, that might be so. That did come up during the discussions.

Mr. Bynum: I am sure that you know that the Royal Coconut Coast Organization has been reformed. There is a recommitment to identifying that area as coconut trees being historically and culturally significant. It is in our best interest to preserve as many of those trees as possible, right? I guess if we vote this, it is going to make it even stronger for that developer to demonstrate as much consideration to this historic grove as possible, but it does not preclude them from developing? I just heard "not necessarily."

Mr. Dahilig: I think that it is not a "blanket no," but it does raise regulatory questions for us as to how the form and the character of the development needs to be either compatible or work around trees that do need to be preserved. Certainly, the trees will come first when it comes to determining how these things are going to be sited if that is where this goes.

Mr. Bynum: Okay. Thank you.

Chair Furfaro: Mr. Rapozo, you have the floor.

Mr. Rapozo: Thank you. To what extent has the Committee actually researched this grove, aside from the applicant going in and sharing what they want to do? Have they taken an inventory? Have they done an assessment on the trees? In if there are any viruses, what the potential life span is? Have they done that?

Ms. Higuchi Sayegusa: They have looked at the plans and the associated Arborist—I think they have an Arborist Report along with the plans that were presented to the Committee, and so that is what they looked at in preparation for the June 6th meeting.

Mr. Rapozo: That Arborist Report was from the developer or the applicant?

Ms. Higuchi Sayegusa: Yes.

Mr. Rapozo: Mike, you mentioned something about tax implications. You said you were not real familiar with it, but is there a tax benefit for someone that develops in an area that includes these protected trees?

Mr. Dahilig: I am just familiar that something exists. I do not have the specific...

Mr. Rapozo: Is it to the benefit of the applicant?

Mr. Dahilig: I believe it is some type of credit that is given either at a...

Mr. Rapozo: Right, that is what I was thinking. That is why I do not think it is a coincidence that this is showing up now because the

applicant is applying all of a sudden. We want it to appear that we are protecting trees but in reality, we are giving the developer or applicant some kind of financial benefit. That is my concern right now. I think we need to explore that as we move forward. I will have some comments after, Mr. Chair.

Mr. Chair: Mike, on the history on that grove, just so we are real clear, Niupia has done a lot of research. I want to make sure I am clear as well because I was talking about the parking lot, that the parking lot was designed—I was not referencing the footprint of the hotel itself. When it came to the parking lot, the template was designed around that. In fact, I forget which Tarzan it was, either Johnny Weissmuller—no, it was not Johnny Weissmuller. Buster Crabbe had—there were five (5) Tarzans. I was not one (1) of them, but Buster Crabbe had a beach house right at the point there. They had this driveway that came in that had a whole series or Norfolk Pines. I think we lost those in Iwa. The parking lot was done well and being designed around that. I think there is around two hundred and twelve (212) stalls inside of the grove, separate from the footprint of the hotel. Niupia—the question about the grove, they have all of the information. I remember the grove there before the hotel was there because they used to be a bull that had these big horns. The grove has been there for quite a period of time. It was the same grove that is on the site over there. I really want you to look into this. Were there conditions when they resubdivided that Plantation Hale piece again? There might have been some conditions that were put in that half because that came much later when Blackfield was managing the resort parcel. I really would like you to look into that. Are there anymore questions here? Mr. Rapozo, go right ahead.

There being no objections, the meeting was called back to order, and proceeded as follows:

Mr. Rapozo: I just was shared the report from the Arborist Commitment so I apologize. I wish we had seen that before. I think that would have answered a bunch of questions. I just gave it to the Staff to make copies so I have not gone through it, but it appears that the Arborist Committee submitted some recommendations. My point is that these things should come from the Arborist Committee. I believe that the recommendation should come from the Arborist Committee, that is why the Arborist Committee is there. I understand it came from Boards and Commissions but I do not know if the Arborist Committee took the time to actually investigate this Bill. My suggestion is that we send the Bill, as we do with any Planning Bill to the Planning Commission, that we send this Bill in its draft form to the Arborist Committee so that they can have it on the agenda. The other thing that it does is provide the community an opportunity to speak at the Arborist Committee Meeting. I think it is important that we get a formal recommendation from the Arborist Committee, as it is pointed out in the Charter. The other concern is that I want to see what the benefit is to the applicant because I am very suspicious that, in fact, this is coming about. If you read the letter from the consultant, Mr. Avery Youn, he is already clear that the area is protected trees and you will see it when the copies come back. They submitted the Arborist Report with a plan to remove some of the dead or dying trees but what is lacking is the Ordinance for the exceptional tree. It is not in the Ordinance right now. Without that, they do not qualify for any tax credits or any kind of benefit that may exist. It is clear that the applicant is going to follow the process, but I think this is required for them to get the tax benefit. That is my concern. I hope that is not the motivation for this. I am hoping that it is truly housekeeping, but I think the timing is suspect and that, in fact, in order for them to qualify, they would

need the Ordinance to put that grove in that class so they can qualify for the tax benefit. I am concerned with the development. I do not want to go into that. I think there will be another day for that, but my concern is that again, we are trying to accommodate this applicant and giving them some benefits which they should already be respecting the historical significance of that grove anyway. I look for more discussion but I would ask that we just refer this over to the Arborist Committee for a formal recommendation. I have some questions for the Finance Department and Real Property Tax, as well. Thank you.

Chair Furfaro: Okay. I would like to get some clarification. You are referring to the document that I sent over to Peter Morimoto? Is that it?

Mr. Rapozo: It was addressed to you that Councilmember Nakamura shared with me. I checked my box and I did not see it so I am not sure if we got it. It may be somewhere. I did not see it before today.

Chair Furfaro: I think I referred it to Peter Morimoto. Thank you.

Chair Furfaro: Mr. Hooser.

Mr. Hooser: In listening to the discussion; on the one hand, I think I am hearing that perhaps this Ordinance is being used to prevent development or slow development, and then I am hearing that the applicant or the developer is supporting the Ordinance. I do not know. Is there any communication whether the owner is supporting the Ordinance or what the motivation is? Do you think the developer want this Ordinance to pass?

There being no objections, the rules were suspended.

Ms. Higuchi Sayegusa: This issue—the need to clarify and amend the Ordinance came up actually before the June 6th meeting. I think it was the March 15th or February meeting. At that time, Niupia came to the Committee in an abundance of caution because I believe there were fifteen (15) trees that were dead and dying, so they wanted to bring it before the Arborist Committee and take those dead, dying trees before it became a safety hazard and plant them at the base of those trees. At that time and that action, that was when the outdated Ordinance issue was uncovered. It was just a little bit of a delay on our part. Initially, that is when that issue was uncovered. At that time, Niupia was in agreement that the Ordinance should be amended and clarified to reflect the original designation in 1976. It really is a housekeeping type of measure that should have been done in March or when it was initially uncovered. Subsequently, there was another meeting that discussed those preliminary plans of Longs, and that was the June 6th meeting.

Mr. Hooser: Chair, can I ask a question?

Chair Furfaro: Go right ahead.

Mr. Hooser: I know you cannot speak for Niupia as we are sitting here, but is it your understanding that Niupia would be supporting this Ordinance as is proposed?

Ms. Higuchi Sayegusa: When I reviewed the March meeting minutes, March 15th I believe it was, I did read and remember that—I had brought up that there is a need to correct the Ordinance and they were in agreement.

Mr. Hooser: You understand that the discussion may inhibit development and may be an incentive to the development. As far as you are know, they would not oppose the Ordinance?

Ms. Higuchi Sayegusa: No.

Mr. Hooser: Are we clear on tax implications or do we not know about that?

Ms. Higuchi Sayegusa: I am not familiar with the tax implications at this point.

Mr. Hooser: No one really knows...

Ms. Higuchi Sayegusa: I am not familiar at this point. I can look into it.

Mr. Hooser: Thank you. Thank you, Chair. It is on first reading also, right?

Chair Furfaro: Yes.

Mr. Hooser: Thank you.

Chair Furfaro: Mr. Kagawa.

Mr. Kagawa: Thank you, Mr. Chair. Jodi, I just want to clarify what I am hearing. When they came to propose to remove, relocate, and replace, we found out that we should have had this Ordinance done?

Ms. Higuchi Sayegusa: It was in March or February, I think it was when they initially identified a safety issue with some of these trees that were already decaying. There was concern that it may topple. At that point, they wanted permission to be able to take those trees done and replace them at the foot of the trees. At that time, that was when it was uncovered.

Mr. Kagawa: That is when we uncovered that we should have had this Ordinance in place?

Ms. Higuchi Sayegusa: Yes, clarified.

Mr. Kagawa: Clarified that they were...

Ms. Higuchi Sayegusa: After the subdivision in 1981.

Mr. Kagawa: It happened because of that, now we are here, and doing it after the fact and doing it the right way, it looks like it is going to benefit them somewhat.

Ms. Higuchi Sayegusa: Like I said, I am not aware of any tax implications but we can look into that at the Council's pleasure.

Mr. Kagawa: Okay. Thank you.

Chair Furfaro: JoAnn, you have the floor.

Ms. Yukimura: Jodi, we have just been given copies of the Arborist Committee memo to the Council and it looks like the developers of the proposed Longs Drugs are addressing this issue because they have to address it, but they are not contesting the designation of exceptional trees, right?

Ms. Higuchi Sayegusa: Right.

Ms. Yukimura: It looks like they are saying that they are going to build that business or that drug store in a way that is integrated into the grove. That is what...

Ms. Higuchi Sayegusa: My understanding—if there are really specific questions on the development maybe...

Ms. Yukimura: In the process of the Arborist Committee considering the request by Avery Youn to review the proposed Longs Drugs proposal, they discovered that technically the grove is not properly designated.

Ms. Higuchi Sayegusa: I am not sure if that actually came up related to the plans. I think it was already understood that the designation applied to both lots.

Ms. Yukimura: Right, but you found out that the technical tax key reference is not included, right?

Ms. Higuchi Sayegusa: I believe the whole area is designated. The whole grove in those two (2) lots. It is just mere clarification of the Ordinance to reflect the TMK description because that whole area was designated in 1976.

Ms. Yukimura: The Bill before us is to clarify that?

Ms. Higuchi Sayegusa: Yes, to clarify.

Ms. Yukimura: I do not see any reason to delay that. We should just go ahead and clarify it and move ahead with that. How that interfaces with the Longs Drugs proposal is something that does not appear to be within the Council's *kuleana*. It is within Planning at this point. Thank you.

Chair Furfaro: I am hearing that we should probably let this go to Public Hearing. Councilmember Nakamura, you have the floor.

Ms. Nakamura: After looking at the June 12th transmittal from Chair Laurie Ho in the Arborist Advisory Committee, it is clear that the Committee motion and approve to accept the preliminary plan presented by the developer. I am comfortable moving to the Public Hearing, but I also think it is important for—I think we should ask the Arborist Committee, just to kind of go back and look at the initial exceptional tree designation because I do not see

anything in this cover letter regarding that discussion. I think that is the basis of everything moving forward. The Arborist Committee has the responsibility not only to add new trees, but to remove where it is appropriate. I think that is where we are relying on their expertise.

Ms. Higuchi Sayegusa: Also, to make recommendations to you folks, who are the deciding body.

Ms. Nakamura: I am hoping it can happen in parallel with our process.

Chair Furfaro: Jodi, let me ask you on that note, if it is moving parallel, you are in agreement that we should send that request, Mr. Clerk, to the Committee while we go ahead and move forward on the Public Hearing? You are in concurrence with that?

Ms. Higuchi Sayegusa: Sure. They are the advisory to you folks, yes.

Chair Furfaro: Mr. Clerk and Staff, you understand what we are going to do here? Okay, Jodi. Anymore questions?

Mr. Rapozo: I have one (1) more question.

Chair Furfaro: Go ahead.

Mr. Rapozo: Can you put that thing back on? Thank you. We have two (2) TMKs and there is the 436 which is one (1) lot...these drawings are so small that I cannot see the lot numbers. I see 27 here. I do not know which one 436 was. I am assuming that is the...

Ms. Higuchi Sayegusa: If you can refer to your maps, there is Kūhiō Highway and Aleka Loop on the top left hand corner of the map.

Mr. Rapozo: Right. Is that the 436?

Ms. Higuchi Sayegusa: On the leftmost corner there, that is (4) 3-006-029 and to the immediate right is (4) 3-007-030.

Mr. Rapozo: We are adding 30 to this? That is what we are doing? We are amending the existing Ordinance to include 30?

Ms. Higuchi Sayegusa: To clarify that the designation applies to both lots, which was the original intent and the designation in 1976.

Mr. Rapozo: Where is that documented anywhere?

Ms. Higuchi Sayegusa: The original designation?

Mr. Rapozo: Right. The 1976 designation?

Ms. Higuchi Sayegusa: Ordinance No. 227.

Mr. Rapozo: It includes Lot 30?

Ms. Higuchi Sayegusa: At that time, it was those two (2) lots because it was not subdivided at that time.

Mr. Rapozo: Okay.

Ms. Higuchi Sayegusa: Then subsequent to that in 1981, it was subdivide to two (2), but really the original designation applied to both.

Mr. Rapozo: Included the whole thing?

Ms. Higuchi Sayegusa: Yes.

Mr. Rapozo: What about across the highway because it says "*makai* and *mauka* of Highway 56 at Waipouli," but they are only listing—are there more tax map keys for across the highway?

Ms. Higuchi Sayegusa: Yes.

Mr. Rapozo: Is it in there now?

Ms. Higuchi Sayegusa: Yes. That was designated in 1976.

Mr. Rapozo: Is that reflected in the existing Ordinance?

Ms. Higuchi Sayegusa: Yes.

Mr. Rapozo: This only shows the amendment.

Ms. Higuchi Sayegusa: Yes. I am sorry—the description also refers to the designation of the *makai* and *mauka*. There are other TMK maps listed on the description of the groves. Those include the...

Mr. Rapozo: Those are accounted for, I guess, is what I am trying to say.

Ms. Higuchi Sayegusa: Yes.

Mr. Rapozo: Since we are working on this, we want to capture that across the highway as well?

Ms. Higuchi Sayegusa: Right.

Mr. Rapozo: Okay. Thank you.

Chair Furfaro: Mr. Hooser.

Mr. Hooser: It may not be a question but I just did a quick Google on the tax and I believe there is a State tax deduction of three thousand dollars (\$3,000) per tree for maintenance that can be taken once every three (3) years. For one hundred (100) trees, it adds up, I suppose. This is a State tax. I am not one hundred percent (100%) clear if it is still in effect but there was or is that deduction. Thank you.

Chair Furfaro: For the Planning Director, there are two (2) questions that we would like to get followed up before then. On the tax piece that Mr. Hooser just did some research for us, we want to know the total number of trees, the parcel, and the application of a tax credit that might equal one thousand dollars (\$1,000) a year. Also, the second part to that question is, do you count living trees or the fifteen (15) that are already *make*? The second question with one (1) part is the some of the history on how that parcel was—there was a second subdivision of that parcel in 1976. If you could help us with that before the Public Hearing, I would appreciate it. Are there anymore questions? Jodi, thank you very much. I will call the meeting back to order. Are there any questions? Mr. Bynum, you have the floor.

There being no objections, the meeting was called back to order, and proceeded as follows:

Mr. Bynum: We had a lot of dialogue to try to tease this out and this document that we received would have been very helpful to be in our packet prior to the meeting today.

Chair Furfaro: I take full responsibility for that. I got it and I sent it to our legal people to review.

Mr. Bynum: Okay.

Chair Furfaro: That was my fault.

Mr. Bynum: I just wanted to say that I got a chance to read this now and it is clearer. This all looks pretty good to me and the questions about tax credits, we can address before this comes to Committee and understand it better. The proposal is to—there are one hundred six (106) trees there now, and after this there would be one hundred six (106) trees. Fifty (50) of them would have been replacement trees at the twenty (20) to thirty (30) foot height instead of the sixty (60) to eighty (80). There is an Arborist Report from Jerry Nishek. Seeing all of this, it is clear to me that the intent is good and there will be as many coconut trees as there were as the proposal, and the ones that are one hundred (100) years old that have questionable life spans are going to be replaced with trees that are warranted to survive. The grove-like appearance—there are drawings that shows a parking lot similar to the Coconut Market Place where trees are preserved whenever possible. This answers a lot of questions; these documents. I think we could proceed with this today and ask additional questions through the Committee process. Thank you.

Chair Furfaro: Okay. Anymore? Again, I give my apologies because when I got the documents, I sent them for a series of questions to our legal people. JoAnn, did you have another question?

Ms. Yukimura: I have a comment.

Chair Furfaro: You have the floor.

Ms. Yukimura: I think what our task is fairly simple to complete the official designation of this particular lot as part of the exceptional tree protection, if you will. It really raises this whole issue about development and changing the character of place. From the drawings, it looks like you could

incorporate—I am surprised because I did not think it was possible. This Longs Drug Store in a grove-like environment but I have to also say that it is really different from just a grove of coconut trees. As Councilmember Bynum pointed out, there has been a resurrection of the Royal Coconut Coast Association. To keep that character of coconut trees would be very important for this east coast of our island and for the businesses and so forth. How we do it is a real challenge and raises all kinds of questions. I think there is a concern by the landowners now about addressing these trees, but until a development is proposed, you could almost say, “Well, let them die.” It costs money to maintain them. If they were dying trees, why were not think *keiki* trees planted earlier in anticipation of them dying? This whole issue of how we encourage and incentivizes owners of property of the exceptional trees to maintain those trees is an ongoing issue. This new Longs is going to be located almost a block away from the existing Longs, just like Safeway in Līhu‘e is going to be about two (2) blocks away from another grocery store. It is beginning to take away the entire rural environment along our main highway. It is a gradual, but an eventual strip development that we are getting. I thought Planning was supposed to prevent that. What is happening here? These are just questions raised by this particular issue before us. I do not know all the answers, but I think we have to find all of the answers if we want to somehow maintain the character of our towns.

Chair Furfaro:

Mr. Kagawa, you have the floor.

Mr. Kagawa: Thank you, Mr. Chair. I agree totally with Councilmember Yukimura on this. Looks like we need to do what we are supposed to have done back in 1976. If it provides a benefit to the developer, then so be it. We are correcting something that should have been done. I, too, have concerns like her. We have a proposed new Longs that is going to be there and we already have sufficient stores in the area. I hear the people of Kaua‘i, at least the ones that I talk to, talk to me about improving traffic in the Kapa‘a area. I do not hear them telling me that they need another big store there. Convenience wise for me, on my way from fishing from here to ‘Anini, it would be easier for me to pull right overthere and pick up my drinks, ice, and bait and head out to ‘Anini but in reality, is it what is going to be best for our people? I hope the Planning Commission will consider those thoughts. Thank you.

Chair Furfaro:
what date?

That includes us going to Public Hearing on

Mr. Watanabe:

August 14th.

Chair Furfaro: Mike, you are going to watch for the correspondence as a follow-up to some of the questions that Mr. Rapozo raised? Okay, on that note, may I please have a roll call vote?

The motion for passage of Proposed Draft Bill No. 2493 on first reading, that it be ordered to print, that a public hearing thereon be scheduled for August 14, 2013, and that it thereafter be referred to the Environmental Services / Public Safety / Community Assistance Committee was then put, and carried by the following vote:

FOR PASSAGE:	Bynum, Hooser, Kagawa, Nakamura, Rapozo, Yukimura, Furfaro	TOTAL – 7,
AGAINST PASSAGE:	None	TOTAL – 0,

EXCUSED & NOT VOTING: None
RECUSED & NOT VOTING: None

TOTAL – 0,
TOTAL – 0.

Proposed Draft Bill (No. 2494) – A BILL FOR AN ORDINANCE AMENDING CHAPTER 3, ARTICLE 1, KAUAI COUNTY CODE 1987, AS AMENDED, RELATING TO THE CODE OF ETHICS: Ms. Yukimura moved for passage of Proposed Draft Bill No. 2494 on first reading, that it be ordered to print, that a public hearing thereon be scheduled for August 14, 2013, and that it thereafter be referred to the Committee of the Whole Meeting, seconded by Mr. Bynum.

Chair Furfaro: Is there any discussion? Anyone in the audience? Vice Chair, you have the floor.

Ms. Nakamura: I just wanted to ask a question about the source of this change and the rationale for this Bill.

Chair Furfaro: Paula, would you please come up?

There being no objections, the rules were suspended.

PAULA MORIKAMI, Boards and Commissions Administrator: Paula Morikami, Office of Boards and Commission. In 2010, the general public voted for this as a Charter Amendment on the ballot and it was never put into the Code. This is just a housekeeping measure to make that happen.

Ms. Nakamura: Okay. Thank you very much for that clarification.

Chair Furfaro: Paula, thank you for coming up. I wanted you to expand on that. Let us call for a roll call vote, please.

There being no objections, the meeting was called back to order, and proceeded as follows:

The motion for passage of Proposed Draft Bill No. 2494 on first reading, that it be ordered to print, that a public hearing thereon be scheduled for August 14, 2013, and that it thereafter be referred to the Committee of the Whole Meeting was then put, and carried by the following vote:

FOR PASSAGE:	Bynum, Hooser, Kagawa, Nakamura, Rapozo, Yukimura, Furfaro	TOTAL – 7,
AGAINST PASSAGE:	None	TOTAL – 0,
EXCUSED & NOT VOTING:	None	TOTAL – 0,
RECUSED & NOT VOTING:	None	TOTAL – 0.

Proposed Draft Bill (No. 2495) – A BILL FOR AN ORDINANCE AMENDING CHAPTER 5A, KAUAI COUNTY CODE 1987, AS AMENDED, RELATING TO REAL PROPERTY TAXES: Mr. Kagawa moved for passage of Proposed Draft Bill No. 2495 on first reading, that it be ordered to print, that a public hearing thereon be scheduled for August 7, 2013 at 8:30 a.m., and that it thereafter be referred to the Finance & Economic Development (Tourism / Visitor Industry / Small Business Development / Sports & Recreation Development / Other Economic Development Areas) Committee Meeting, seconded by Mr. Bynum.

Chair Furfaro: Thank you. Is there anyone in the audience who wishes to comment on this item? If not, the Chair recognizes Mr. Bynum.

Mr. Bynum: I want to start by thanking Steve Hunt, Jennifer Winn, and our Staff; Ashley Bunda and Scott Sato, who have been meeting and preparing this Bill over the last few weeks. This really brings to fruition three (3) years of our tax reform efforts. This is something that we worked out in corporation with our Staff, me, and the Mayor's Office so I want to go over the main elements of the Bill just briefly. This Bill first removes the permanent Home Use Credit that has caused some difficulties in its old age and replaces it with a Home Preservation Credit for those folks who might be impacted dramatically. These are kind of the outliers and Real Property estimates it will be one hundred (100) to two hundred (200) applicants. We can talk with more detail about why this is needed, but it brings back the homestead back into *ad valorem* taxation or based on assessed value/minus exemptions/times rate. Each citizen will be treated the same. The Bill also increases the Homeowner's Exemption. The numbers in the Bill are a placeholder because as we discussed with the Permanent Home Use (PHU) doing data analysis is complicated, but in meetings with the Mayor, we have agreed to target tax relief for the homestead class at about three point nine million dollars (\$3,900,000) which is the current PHU credit. This will reduce taxes for the homestead class and bring them more in line with the expectations that we had in 2008. I would like there to be more relief, but the Mayor has agreed to this level and we can discuss if it should be more or less when the Bill comes. The Bill also increases the minimum tax for everyone over—well, not for everyone...increases the standard minimum tax from the current twenty-five dollars (\$25) to one hundred dollars (\$100) next year and one hundred fifty dollars (\$150) in the subsequent year. It kind of phases it in over two (2) years. It also exemptions everyone on Hawaiian Homelands from minimum tax. It kind of establishes for the first time, kind of minimum tax on credit unions of one thousand five hundred dollars (\$1,500). Credit unions have been exempt from all taxation, even though they have business properties and buildings. This will say that you are assessed each building that you have...your maximum tax will be one thousand five hundred dollars (\$1,500). That is roughly about one hundred eighty seven thousand dollars (\$187,000) of commercial value. Most credit unions have buildings that would be taxed much higher than that. This is saying that they are making some contribution, but also recognizing the nonprofit status of credit unions. As Mr. Furfaro and I discussed, it also eliminates—we were going to introduce a separate Bill but it is included in here—elimination of Homeowner's Exemption for anyone who has a Transient Vacation Rental (TVR) permit. Current law, you can both have a Homeowner's Exemption and have a commercial use of your property. This would say if you have a commercial use, you are no longer eligible for Homeowner's Exemption. I think there was discussion in concurrence on most of these issues during our last Budget and tax sessions, so I believe this is a reasonable Bill that we may have some discussion about the amount of Homeowner's Exemption. It is a compromise both from my position and the Mayor's, and I think again, with the help from Jennifer Winn, Steve Hunt, and Kim Hester; we think this is a good Bill. I just wanted to give that overview.

Chair Furfaro: Are there any questions? JoAnn.

Ms. Yukimura: Yes. In addition to all of those acknowledged, I do want to acknowledge the Finance Committee Chair, Mr. Bynum. He has been a ceaseless advocate for restoring equity and fairness in our Real Property Tax system. This Bill will help us move in that direction. I think it is

timely and I look forward to working on it, so we can get a good product for the people of Kaua'i.

Chair Furfaro: Okay. Vice Chair?

Ms. Nakamura: Yes, I too, want to acknowledge Councilmember Bynum and the Finance Department. They said during the Budget Process that they were going to move expeditiously on it. I think you have working together. Thank you very much. I believe that this is a time-sensitive Bill, in order to impact the next Fiscal Year.

Mr. Bynum: Yes, it is.

Ms. Nakamura: I look forward to our discussions. Thank you.

Mr. Bynum: I would like to say a couple of other things. I am going to thank Chair Furfaro for recognizing the expeditious manner of this Bill. These are very complex issues. I think this is going to bring us to a very manageable, sustainable, and fair manner of taxation. It is time sensitive, so I would encourage members to read the Bill, as questions, and work with Staff if you have Amendments to prepare because we do not want to "miss the boat" in terms of making these next Fiscal Year. The final thing is just a reminder that we increased the low income exemption. We created a long-term rental incentive for our landlords and this proposal to increase the Homeowner's Exemption, including senior, that even though the PHU is coming away with the tax reduction, the majority of taxpayers will see a reduction. Those who see an increase...they will not be that great and when they are great, there is this home provision credit that is new. It is like, "Hey, if you already are senior and you already have low-income discounts, you used all of these mechanisms, and still your home is not threatened, this Bill addresses that. Thank you.

Chair Furfaro: Okay. Anymore? I, too, want to thank Scott, as well as Ashley from our team, but Kim Hestor, our Finance Director, Steve Hunt, and Sally—I have had time separately with them. I am ninety percent (90%) happy with what we have in this document. I also want to acknowledge Mr. Bynum for his comments about finding the time that putting it on the agenda and expediting it...I was happy to do so, Tim.

Mr. Bynum: Thank you.

Chair Furfaro: Like I said, at this point, I know Mr. Kagawa and I have had some time to review the Bill. I am ninety (90%) happy with what we have coming out here. Mr. Kagawa.

Mr. Kagawa: Thank you, Mr. Chair. I would like to thank Mr. Bynum and yourself for putting it on the agenda and everybody who has worked on it. After the Public Hearing and when we go to Committee, I would like to see some examples provided by Mr. Hunt. He has been in the Real Property Tax Division for a long time and he has that expertise. I would like to see some examples. It does not have to have names or exact TMKs, but I want to see some examples of how this would play out in reality. If that could be provided...maybe ten (10) examples or so, cases in which homestead classes will go down and where

those bills that was low would come back to even or as we say, “get everybody more on a level playing field.” Thank you.

Chair Furfaro: Yes. Like Mr. Bynum said, between the three point eight million dollars (\$3,800,000) and three point nine million dollars (\$3,900,000), there will be some tweaking in there but we will have time to do that. Before I call for the vote, Jennifer, thank you very much for your legal work on this. It is very much appreciated. Are there anymore comments before we call for the vote here? We have a motion and a date. May I have a roll call vote, please?

The motion for passage of Proposed Draft Bill No. 2495 on first reading, that it be ordered to print, that a public hearing thereon be scheduled for August 7, 2013 at 8:30 a.m., and that it thereafter be referred to the Finance & Economic Development (Tourism / Visitor Industry / Small Business Development / Sports & Recreation Development / Other Economic Development Areas) Committee Meeting was then put, and carried by the following vote:

FOR PASSAGE:	Bynum, Hooser, Kagawa, Nakamura, Rapozo, Yukimura, Furfaro	TOTAL – 7,
AGAINST PASSAGE:	None	TOTAL – 0,
EXCUSED & NOT VOTING:	None	TOTAL – 0,
RECUSED & NOT VOTING:	None	TOTAL – 0.

BILLS FOR SECOND READING:

Bill No. 2460, Draft 1 – A BILL FOR AN ORDINANCE AMENDING CHAPTER 12, OF THE KAUA‘I COUNTY CODE 1987, AS AMENDED, ENTITLED “BUILDING CODE.” Mr. Kagawa moved to receive Bill No. 2460, Draft 1 for the record, seconded by Mr. Rapozo.

Chair Furfaro: Discussion? Mr. Bynum, you have the floor.

Mr. Bynum: This is a Bill where we got trumped by the State Legislature. The County of Kaua‘i had a mechanism to both not require permits, and at the same time, make sure that structures are built to Code. We have to go back to the drawing board based on the State Legislature’s Bill and kind of see where we are at. That is why we are receiving this Bill in its current theme.

The motion to receive Bill No. 2460, Draft 1, for the record was then put, and carried by the following vote:

FOR RECEIPT:	Bynum, Hooser, Kagawa, Nakamura, Rapozo, Yukimura, Furfaro	TOTAL – 7,
AGAINST RECEIPT:	None	TOTAL – 0,
EXCUSED & NOT VOTING:	None	TOTAL – 0,
RECUSED & NOT VOTING:	None	TOTAL – 0.

Bill No. 2483, Draft 1 – A BILL FOR AN ORDINANCE AMENDING CHAPTERS 7, 8, AND 9, KAUA‘I COUNTY CODE 1987, AS AMENDED, RELATING TO THE ADJUSTMENT OF VARIOUS PERMITTING CHARGES AND FEES LEVIED BY THE DEPARTMENT OF PLANNING (County of Kaua‘i, Applicant): Ms. Yukimura moved for adoption of Bill No. 2483,

transmitted to the Mayor for his approval, seconded by Mr. Rapozo, and carried by the following vote:

FOR ADOPTION:	Bynum, Hooser, Kagawa, Nakamura, Rapozo, Yukimura, Furfaro	TOTAL – 7,
AGAINST ADOPTION:	None	TOTAL – 0,
EXCUSED & NOT VOTING:	None	TOTAL – 0,
RECUSED & NOT VOTING:	None	TOTAL – 0.

Chair Furfaro: Before we go to lunch, I want to call the County Attorney up. Before I do, Al, I would like to give Councilmember Yukimura a personal privilege. You have the floor.

Ms. Yukimura: Thank you. I feel a bit shy about announcing this because it is so personal, but this is a personal privilege. It is pretty happy news. I just wanted to say that today is my parents' 65th Wedding Anniversary. It is hard for me to conceive being together for so long but it is typical, I think, of this generation of my parents, that they are together so long, reflecting fidelity, commitment, and love. It is just a happy thing that I wanted to share. Thank you.

Chair Furfaro: Thank you for doing that. This entire Council wishes them all of our *aloha*. You have some dynamic parents there that have touched all of us in meeting them. Congratulations to them.

Ms. Yukimura: Thank you, Chair.

Chair Furfaro: Al, may I ask you to come up? We will have to come back after Executive Session. Al, can you read us into Executive Session, but we will go to lunch.

There being no objections, the rules were suspended.

EXECUTIVE SESSION:

ALFRED B. CASTILLO, JR., County Attorney: Thank you. Council Chair and Councilmembers, Al Castillo, County Attorney. I might add "congratulations" also, JoAnn.

Ms. Yukimura: Thank you.

Mr. Castillo: I can see their faces. Anyway, Council Chair, I will read the items up for your consideration.

ES-610 Pursuant to Hawai'i Revised Statutes (HRS) Sections 92-4, 92-5(a)(4), and Kaua'i County Charter Section 3.07(E), on behalf of the Council, the Office of the County Attorney requests an executive session with the Council to provide the Council with a briefing related to the procurement matter and recommendations as stated in the Management Advisory Report Finding 12-01 "Review Purchasing and Procurement Process of Independent Contractors," and related matters. This briefing and consultation involves the consideration of the powers, duties, privileges, immunities and/or liabilities of the Council and the County as they relate to this agenda item.

ES-629 Pursuant to Hawai'i Revised Statutes (HRS) Sections 92-4 and 92-5(a)(3), and (4), and Kaua'i County Charter Section 3.07(E), the purpose of this Executive Session is for the Council to address issues relating to ongoing labor negotiations and related matters and to consult with the County Attorney. This briefing and consultation involves the consideration of the powers, duties, privileges, immunities, and/or liabilities of the Council and the County as they relate to this agenda item.

ES-656 Pursuant to Hawai'i Revised Statutes (HRS) Sections 92-4, 92-5(a)(4), and Kaua'i County Charter Section 3.07(E), the Office of the County Attorney requests an Executive Session with the Council to provide the Council with a briefing regarding the claim against the County of Kaua'i by Shane N. Matias, filed on June 2, 2010 and related matters. This briefing and consultation involves consideration of the powers, duties, privileges, immunities, and/or liabilities of the Council and the County as they relate to this agenda item.

ES-657 Pursuant to Hawai'i Revised Statutes (HRS) Sections 92-4 and 92-5(a)(4) and (8) and Kaua'i County Charter Section 3.07(E), the Office of the County Attorney requests an Executive Session with the Council, to provide the Council with a briefing in matters relating to the investigation of personnel matters involving the Office of the County Auditor and related matters. This briefing and consultation involves consideration of the powers, duties, privileges, immunities and/or liabilities of the Council and the County as they relate to this agenda item.

There being no objections, the meeting was called back to order, and proceeded as follows:

Mr. Kagawa moved to convene into Executive Session for ES-610, ES-629, ES-656, and ES-657, seconded by Mr. Rapozo, and carried by the following vote:

FOR EXECUTIVE SESSION:	Bynum, Hooser, Kagawa, Nakamura, Rapozo, Yukimura, Furfaro	TOTAL – 7,
AGAINST EXECUTIVE SESSION:	None	TOTAL – 0,
EXCUSED & NOT VOTING:	None	TOTAL – 0,
RECUSED & NOT VOTING:	None	TOTAL – 0.

Chair Furfaro: Members, we are going to break now but we will be back at 1:30 p.m.

There being no objections, the meeting was recessed at 12:21 p.m.

The meeting reconvened at 3:37 p.m., and proceeded as follows:

Chair Furfaro: To the Clerk's Office, can you take us through the public portions of these Executive Sessions?

COMMUNICATIONS:

C 2013-257 Communication (07/03/2013) from the County Attorney, requesting Council approval to expend funds up to \$5,000 for Special Counsel's continued services provided for in the claim against the County of Kaua'i, filed by

Shane N. Matias on June 2, 2010 and related matters: Mr. Bynum moved to approve C 2013-257, seconded by Ms. Yukimura, and carried by the following vote:

FOR APPROVAL:	Bynum, Hooser, Kagawa, Nakamura, Rapozo, Yukimura, Furfaro	TOTAL - 7,
AGAINST APPROVAL:	None	TOTAL - 0,
EXCUSED & NOT VOTING:	None	TOTAL - 0,
RECUSED & NOT VOTING:	None	TOTAL - 0.

C 2013-259 Communication (07/11/2013) from the County Attorney, requesting Council approval to expend additional funds up to \$20,000 for Special Counsel's continued services to advise and represent the County Council in matters relating to the investigation of personnel matters involving the County Auditor's Office, and related matters: Ms. Yukimura moved to defer C 2013-259, seconded by Mr. Hooser, and carried by the following vote:

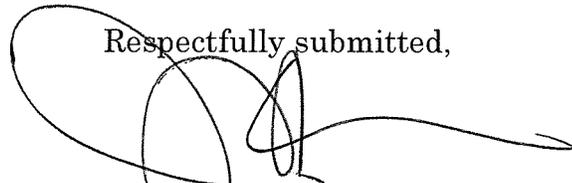
FOR DEFERRAL:	Bynum, Hooser, Kagawa, Nakamura, Rapozo, Yukimura, Furfaro	TOTAL - 7,
AGAINST DEFERRAL:	None	TOTAL - 0,
EXCUSED & NOT VOTING:	None	TOTAL - 0,
RECUSED & NOT VOTING:	None	TOTAL - 0.

Chair Furfaro: Thank you. This brings us to conclusion of today's Council Meeting as posted. Thank you everyone and have a nice evening.

ADJOURNMENT:

There being no further business, the meeting was adjourned at 4:17 p.m.

Respectfully submitted,



JADE K. FOUNTAIN-TANIGAWA
Deputy County Clerk

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